

Public Utilities

FORTNIGHTLY



October 28, 1943

WANTED: A NATIONAL FUEL-GAS POLICY

By Francis X. Welch

« »

**War Service for Farmers and
Small Businessmen**

By John Mappelbeck

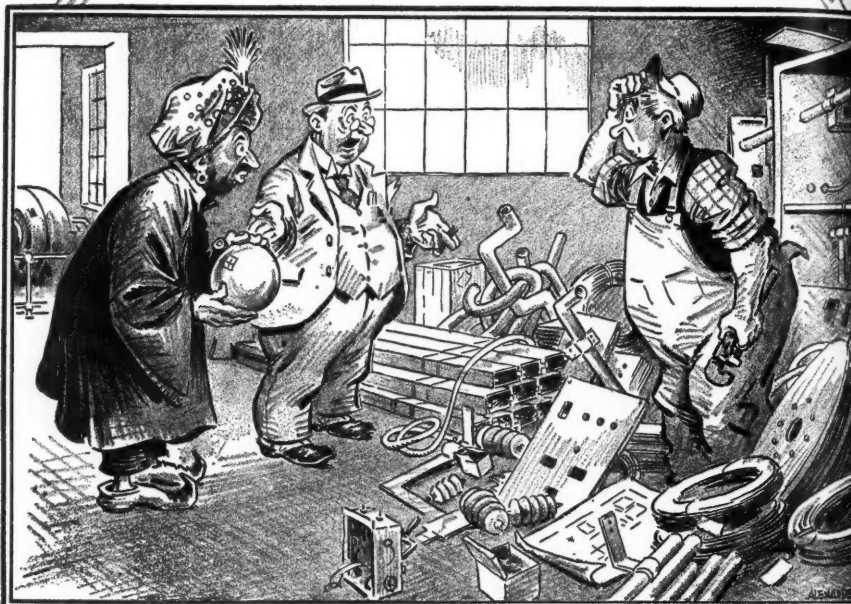
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**Public Utility Efficiency and Postwar
Full Employment
Part II.**

By Fergus J. McDiarmid

**Greetings to the American Gas Association
Annual Meeting, St. Louis, Mo.
October 26-28**

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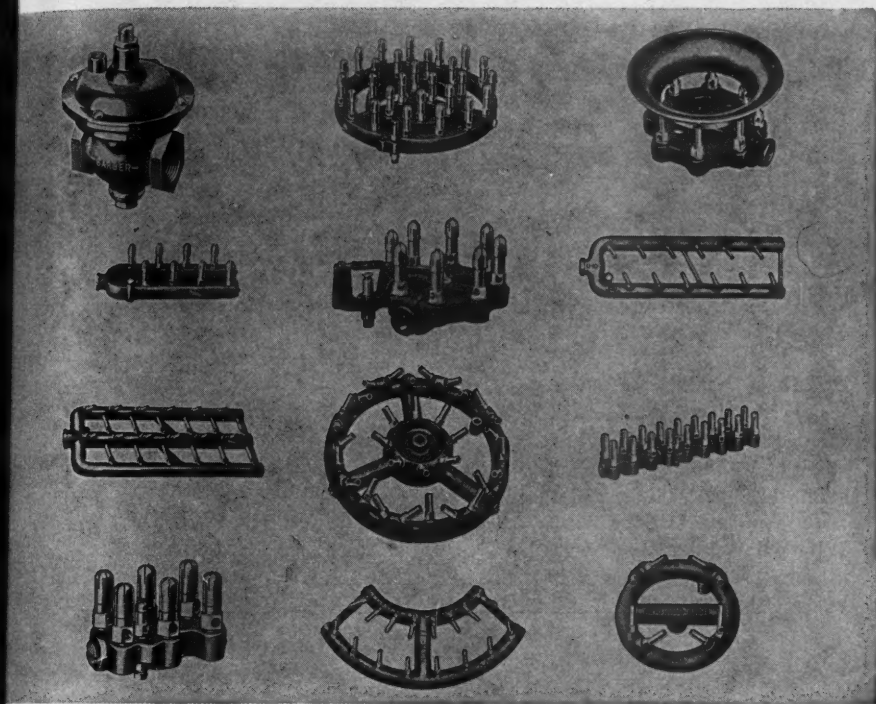
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Public Utilities Fortnightly

VOLUME XXXII

October 28, 1943

NUMBER 9

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Q This magazine is an open forum for the free expression of opinion concerning public utility regulation and allied topics. It is supported by subscription and advertising revenue; it is not the mouthpiece of any group or faction; it is not under the editorial supervision of, nor does it bear the endorsement of, any organization or association. The editors do not assume responsibility for the opinions expressed by its contributors.

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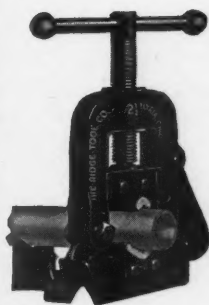
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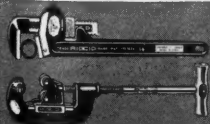
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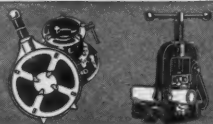
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Pages with the Editors

Now that the Yankees have overrun and conquered the courageous St. Louis Cardinals, we are glad to report that the lovely old Missouri city is due for some consolation in the form of the twenty-fifth annual convention of the American Gas Association. We are sure that the convocation of this distinguished group of industrial representatives will go a long way toward restoring the spirit of St. Louis.

ONE of the more recent problems of broad policy which will doubtless engage the attention of the gas men at St. Louis and continue to hold our attention throughout a number of years in the future is the problem of interconnecting natural gas supply. The extension of natural gas into new areas, of course, brings with it supplementary problems affecting manufactured gas utilities previously operating exclusively in such areas.

BUT the problem created by the transportation of large quantities of natural gas into a new area is equaled if not overshadowed by the problem arising from the prospective severance of such supplies from their areas of origin. How much right, if any, does a gas- and oil-producing state such as Texas have to

restrict the export of such irreplaceable natural resources—especially into states which have alternative fuel resources of their own such as coal?

THIS question has come to the fore as the result of the action of the WPB and the FPC last month in approving the construction of a \$50,000,000 natural gas pipe line from the Corpus Christi area in Texas to the Appalachian fields which are being depleted as the result of demands from eastern cities. The threat of the Governor of Texas (see page 570 of this issue) to levy a state severance tax on such exportation of Texas gas is a very noticeable feather in the wind.

As natural gas and oil become scarcer and more important to industry, it is only natural that states such as Texas, Louisiana, and California would prefer to have their resources stay at home and attract industry to come to them instead of allowing such resources to be exported to established industrial centers in the East.

WE can see that this is going to become an increasingly vexatious issue in the postwar years especially in view of the likelihood that some pipe lines built during the war and now used to transport oil to the East may be turned over to natural gas after the war when oil transportation reverts to its relatively cheaper peace-time form of transportation by tankers and barges.

THE question of whether to permit the removal of large quantities of gas or oil for use here or there is only a part of a much larger question of how America can best use all of its fuel and energy resources with due regard for conservation and sensible business economics. The opening article in this issue by a member of our editorial staff undertakes to discuss in broad terms this most important fundamental question. Its title is almost self-explanatory—"Wanted: A National Fuel-gas Policy."

THE other day we happened to notice in the newspapers that the United States Supreme Court had convened for its regular October term. And a few days later there happened to cross our desk a copy of the petition of the city of Cleveland in that court appeal.

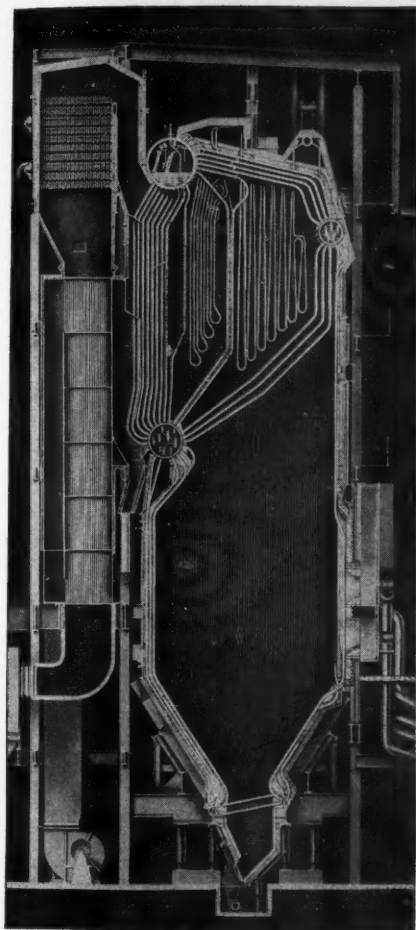


FERGUS J. MCDIARMID

Revolutions after the war are likely to be more industrial than political.

(SEE PAGE 547)

RILEY STEAM GENERATING UNIT



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Actual Results Almost Always
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	Actual	Guaranteed
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Above results are from the pulverized coal fired Riley Steam Generating Unit Illustrated.

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ing from a decision of the Fourth U. S. Circuit Court, which overruled the FPC in the Hope Natural Gas Case, 47 PUR(NS) 129. This was the case in which the FPC refused to consider any evidence of reproduction cost in fixing rates under the Natural Gas Act. Thereupon the thought occurred to us that this year the highest court will have another opportunity to pass on original cost *versus* reproduction cost in utility rate base determination.

WHAT are the possible consequences of the Hope Natural Gas appeal? In its last important decision on utility rate valuation, a bare majority of the Supreme Court, in an opinion by Chief Justice Stone, affirmed a rate finding of the FPC, but without overruling the doctrine laid down by the court in 1898 in *Smyth v. Ames*.

THIS was the Natural Gas Pipeline decision, 42 PUR(NS) 129, in which the other four members of the court clearly indicated a disposition to overrule *Smyth v. Ames* to the extent that the latter requires a regulatory body to consider evidence of present value as well as original cost.

THE opinion of Chief Justice Stone, on the other hand, simply decided the Natural Gas Pipeline Case on the basis of a presumption in favor of regulatory discretion without endorsing original cost or any other formula. Since that case was decided, Justice Byrnes, who voted with the majority, has left the court. His successor, Justice Rutledge, on his past record has given no indication of which view he might be expected to embrace.

WILL the Stone faction of the court continue its preference for elastic regulation? This would follow the cautious precedent of backing away from outright repudiation of *Smyth v. Ames*—leaving the regulatory boards freedom of action to decide each case on its merits, subject to a rather vague judicial supervision in the interest of constitutional "due process." Such an attitude takes a long-range view that economic fluctuations may again reverse price trends so as to make it in the consumers' interest to give more weight to reproduction cost (which were the original circumstances under which *Smyth v. Ames* was decided). As a matter of fact, much new utility plant construction slated for the inflationary period following the war is likely to be done at peak prices. These, under the original cost formula, could be frozen into a rate base detrimental to the ratepayers during subsequent low price periods.

How about the Frankfurter-Douglas-Black-Murphy faction of the court? Will it continue its inclination to throw out *Smyth v. Ames* once and for all, and establish the original cost or prudent investment views of the late Justice Brandeis as a favored if not exclusive standard for future utility rate making? There are, of course, two other, less likely, possibilities: (1) A majority of the court may affirm the Fourth U. S. Circuit Court's

opinion, thereby reestablishing *Smyth v. Ames* in full effect as the law of the land; (2) by disqualification, a tie vote of the court might result in technically reaffirming the Fourth U. S. Circuit Court.

Two other important utility cases may be decided at the current term of the United States Supreme Court. First there is the appeal by OPA from the District of Columbia Court of Appeals decision in the Washington Gas Light Case, 50 PUR(NS) 33. This case may well determine the extent of OPA powers in utility rate proceedings for the duration. The other case is the constitutional test of the Holding Company Act, which was set for the last term in the North American Case but delayed because of the inability of the court to obtain a quorum. It is possible, of course, that this impasse may be continued and that the North American Company, which has already indicated that it might make its peace with the SEC, will withdraw its appeal.

OTHER feature articles appearing in this issue are "War Service for Farmers and Small Businessmen" (beginning page 540), written by a newcomer to these pages, JOHN MAPPELBECK, of California. There is also the second of the 2-part article on "Public Utility Efficiency and Postwar Full Employment" (beginning page 547) by FERGUS J. MCDIARMID, the well-known business writer who is also an insurance official residing in Fort Wayne, Indiana.

WE feel justified in again calling to the notice of our readers the frontispiece in this issue. It is the first of a series of eight mural paintings by J. Monroe Hewlett, which we are reproducing through the courtesy of the Bank of New York. "The Bank," as it was called in the early days of its existence, was founded in 1784 and is reported to be New York's first bank. It has occupied its present site, on the corner of Wall and William streets, since 1796.

THESE mural paintings which we are privileged to reproduce fill the panels on two walls of the main banking room. The theme is the commercial and industrial development of New York during the eighteenth and nineteenth centuries.

IMPORTANT decisions preprinted from *Public Utilities Reports* may be found in the back of this number.

THE next number of this magazine will be out November 11th.

The Editors

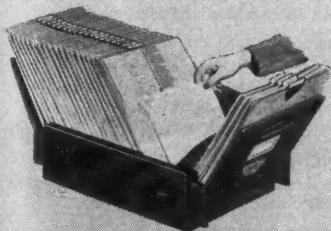
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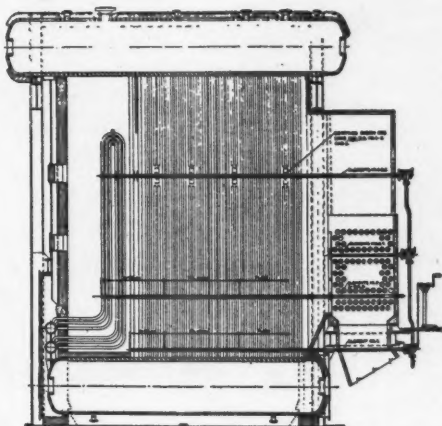
PREPRINTS FROM PUBLIC UTILITIES REPORTS

Various regulatory rulings by courts and commissions reported in full-text, pages 65-128, from 50 PUR(NS)

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Another Example of VULCAN VERSATILITY in Soot Blower Design

**Vulcan unit makes notable
4 year record in latest design,
twin furnace Foster Wheeler
steam generator installation
at Oil City, Pa., station of the
Keystone Public Service Company,
operating on fuel relatively high
in ash having a low fusion point.**



Vulcan unit in twin-furnace Foster Wheeler steam generator completes 4 years' service with NO TROUBLE AND NO MAINTENANCE.

... This despite unusual problems presented by novel boiler and furnace design.

... As the drawing shows it was impracticable to install soot blowers from the front of the boiler as the furnace construction precluded installation of conventional type of elements and bearings to provide necessary protection and support.

... Hence, entry was made at the back necessitating carrying the elements a distance of about 26 ft., through the economizer and boiler tube banks to the superheater.

... Passage through high temperature, intermediate temperature and relatively low temperature zones, plus the factor of exceptional length, greatly complicated the problems of securing adequate thermal protection, dependable support, and at the same time provide for expansion and contraction without danger of cutting tubes.

Solution was found by using HyVULOY element

section for the high temperature area, VULCROM element for the intermediate, with the balance steel; and providing specially designed bearings to hold the members in such a way as to eliminate hazard of tube-cutting and directed expansion toward the back of the boiler, where it could be taken up by a suitable expansion joint.

... Because of the advanced design of this boiler involving new features in soot-blower design and construction, Vulcan engineers inspected the installation monthly for many months, but the engineering was so sound that no trouble of any kind developed—Results—Perfect Operation—Perfect Cleaning—Reasonable Cost—And—VULCAN SOOT BLOWERS WERE SPECIFIED when a duplicate Foster Wheeler twin furnace steam generator was recently ordered by Keystone Public Service Company.

... Whatever the characteristics of your boiler and setting, fuel, or load, Vulcan engineers can successfully solve any soot blower installation and operating problem involved. We invite your consideration of Vulcan service with respect to any soot blower need.

VULCAN SOOT BLOWER CORPORATION

DU BOIS, PENNSYLVANIA

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Remarkable Remarks

"There never was in the world two opinions alike."

—MONTAIGNE



JAMES LAWRENCE FLY
*Chairman, Federal Communica-
tions Commission.*

"Freedom to listen is an essential counterpart of freedom of speech."

EDITORIAL STATEMENT
The Hartford Courant.

"Initiative to meet the demand for any product is the essence of sound private enterprise."

WILFRED SYKES
President, Inland Steel Company.

"I think that if the government deliberately planned inflation for the postwar period it could not do a more certain job than it is doing."

ASHTON B. COLLINS
*Writing in the Edison Electric
Institute Bulletin.*

"Power companies won't have to stop and retool after the war, like commercial concerns, but they will have to Repackage and Retell, and Resell!"

DAVID E. LILIENTHAL
*Chairman, Tennessee Valley
Authority.*

"The valley [TVA] is a unit. All its resources fit together, and this is dictated not by whim or politics, but by the Lord. You can't chop off any segment of natural resources and develop it along with no regard for the other segments."

ERIC JOHNSTON
*President, Chamber of Commerce
of the United States.*

"Their [British] businessmen thinking has contained much more government control and less free enterprise than ours. We put the emphasis on opportunity; they put it on security. That will make team play difficult because these are great differences of opinion."

BURTON K. WHEELER
U. S. Senator from Montana.

"I find that many Senators are conservatives when it comes to eliminating various bureaus and reducing the expenses of the government; but when it comes to appropriating billions of dollars to give away to some foreign country, they are the most generous-hearted persons in the world."

GORDON RIELEY
*Vice president, Bryant Heater
Company.*

"None of us wants to stand in the way of progress. None of us wants to delay any longer than necessary giving to Americans the better things that only American genius can and will provide. However, unless we use more intelligently the powers of advertising and publicity which in the past have served us so well, we will discover Mr. and Mrs. America demanding and expecting us to deliver merchandise that not even Superman could produce."



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The manufacture of aircraft equipment for the Government, and the manufacture of Burroughs figuring and accounting equipment for the Army, Navy, U. S. Government and the nation's many war activities, are the vital tasks assigned to Burroughs in the Victory Program.

As a noteworthy instance, 700,000 different items of equipment and supplies in varying quantities crammed the convoys that carried American armies to conquest in North Africa—250,000 different items of ordnance; 100,000 different Engineer Corps articles; 68,000 different items of medical supplies and drugs; 10,000 different items for the Signal Corps; 390 different articles of clothing.

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REMARKABLE REMARKS—(Continued)

W. LEE O'DANIEL
U. S. Senator from Texas.

"... The greatest need of this nation today is a thorough house cleaning in Washington."

EDITORIAL STATEMENT
New Masses.

"The general issue of free speech takes on meaning only in reference to a specific situation. The specific situation today is the life-and-death one of whether or not we exterminate Fascism from the face of the earth. The controversy over radio censorship and discrimination ought to be discussed and settled in accordance with that specific criterion."

RAYMOND MOLEY
Associate, *Newsweek.*

"To get freedom from bureaucracy we must destroy bureaucracy. To destroy bureaucracy we must strike at the means whereby bureaucracy stays in power. The keystone to the bureaucracy is the presidency. Only by perpetuating him can it perpetuate itself. And only by cutting his tenure can we prevent the government machine under him from throttling our liberty and destroying the republic."

E. H. CRUMP
Political leader, Shelby county, Tennessee.

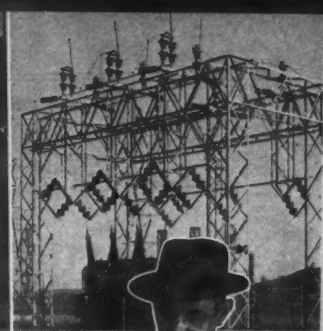
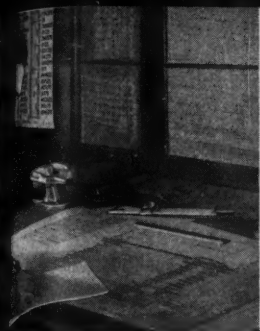
"To round up this money-making, pleasure-loving, political country for war, and Roosevelt did it, was even harder than if fifty of the best businessmen in America were told they must take charge of Barnum and Bailey circus—unload, put up, give performance, and reload. How long would it take them to do it, and how many stobs would they leave on the ground? Yet, Roosevelt must be perfect."

EDITORIAL STATEMENT
Cleveland Plain Dealer.

"By its nature rationing of the necessities of life involves government planning. It is the complete antithesis of free enterprise. It comprehends the planning of production and the regimentation of consumption. If it remains as a part of the American system a year after the Axis has been destroyed, the nation will have lost the war on the home front and we shall have accepted a major feature of the statism we are fighting a global war to destroy."

FREDERICK C. CRAWFORD
President, National Association of Manufacturers.

"Will it be a licensing system next for the newspapers of this country? Or will it take the subtler form of subsidies disguised as government advertising? This we know. When the newspapers definitely turn away from private industry to government, it is the beginning of the end for freedom of the press, and not so far from the end either. With the end of freedom of the press there will come sooner or later the end of our free competitive system. Ideas and plans emanating from the center—incidentally, this is a new, ingratiating, musical word, the center meaning the government or the dictator. Ideas emanating from the center can easily be imposed on a confused and intimidated people in the absence of free criticism."



*"There's more
here than meets
the eye"*



It's a Hi-Pressure Contact switch, designed and refined by R&IE engineers, who set a new standard in its creation.

"As neat and smart as a switch can look, and still "take it".

"What you don't see here is the constant search for improvement in design and operation. R&IE engineers are never satisfied. They know that spot-pressure, self-cleaning contacts, proper selection of materials and other manufacturing processes are fundamentally right—but, they are continually looking for refinements that will improve on present Quality and Performance. We've been at it for 33 years. In that time, every switch that went out helped establish the margin of quality that distinguishes all R&IE equipment".



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GREENSBURG, PA. . . In Canada—Eastern Power Devices Ltd., Toronto
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for unit capacities from 1000 to 1,000,000 lb per hr

BOILERS . . . The C-E Boiler line includes virtually all water-tube and fire-tube types in commercial use today for both stationary and marine applications.

BENT TUBE—2, 3, 4 and multi-drum designs

STRAIGHT TUBE—sectional header, box header

FIRE TUBE—hrt, vertical, internally fired, locomotive type

WASTE HEAT—straight tube, bent tube, fire tube

FORCED CIRCULATION—stationary, marine, Diesel waste heat

(C-E Boilers include all types known by the trade names—Heine, Walsh-Weidner, Casey-Hedges, Ladd and Nuway)

SUPERHEATERS . . . The complete line includes various designs suitable for any superheat requirement and applicable to practically all types and sizes of boilers; also separately-fired designs.

(Known by the trade name: Elesco)

Many of the most notable boiler units now in service in utility plants are C-E Units.

COMBUSTION

C-E PRODUCTS INCLUDE ALL TYPES OF BOILERS, FURNACES, PULVERIZED FUEL SYSTEMS AND STOKERS, ALSO SUPERHEATERS, ECONOMIZERS, AND AIR HEATERS

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STOKERS

... Combustion Engineering has the most comprehensive line of stokers of any manufacturer.

UNDERFEED—multiple retort, single retort, (five types)

CHAIN GRATE—(four types)

TRAVELING GRATE—(three types)

SPREADER

(C-E Stokers include all types known by the trade names Cox, Green, Type E, Low Ram and Skelly)

PULVERIZED FUEL EQUIPMENT

... The application of pulverized fuel firing to power boilers was pioneered by Combustion Engineering. C-E developments which include the use of water cooled walls and water screens, C-E Raymond Mills and C-E Burners are largely responsible for the position of eminence which pulverized fuel firing holds today in the field of steam generation.

(Includes equipment known by the trade names Raymond and Lopulco)

FURNACES

... C-E Furnaces feature both plain tube and extended surface water cooled wall construction; also both dry and slagging bottom designs.

RELATED EQUIPMENT

... In addition to its extensive line of steam generating and fuel burning equipment Combustion Engineering offers:

AIR HEATERS—plate type, tubular type

ECONOMIZERS—Continuous loop design, Ranged joint design—both fin tube type

(Economizers are known by the trade name Elesco)

COMPLETE UNITS

... Built in suitable combinations of boiler, fuel burning and related equipment for any fuel and for capacities ranging from 1000 to over 1,000,000 lb of steam per hr. Also complete units of standard design known by the trade names C-E Steam Generator, Type VU and Type VU-Z.



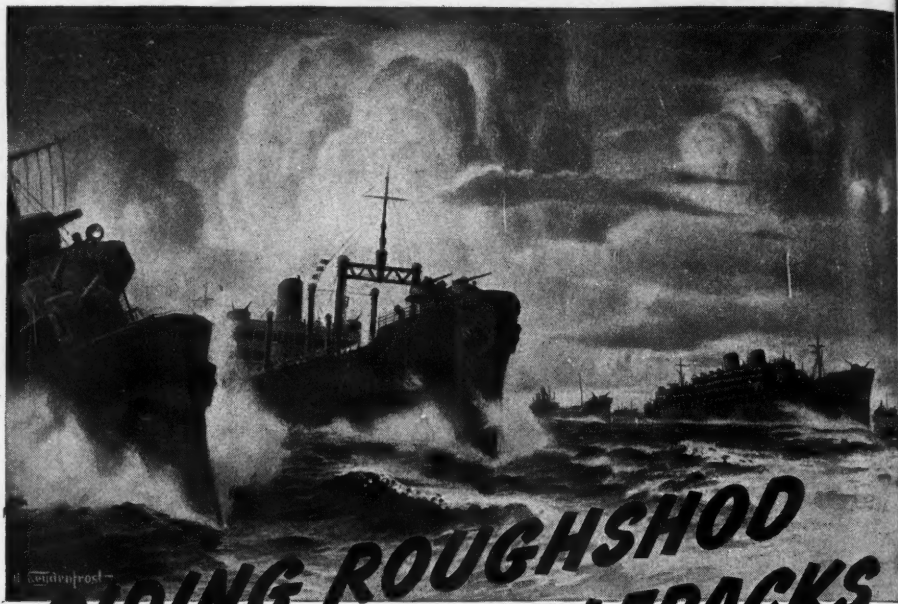
A-697

ENGINEERING

COMBUSTION ENGINEERING COMPANY, INC., 200 MADISON AVENUE, NEW YORK, N. Y.

CANADA: COMBUSTION ENGINEERING CORPORATION, LTD., MONTREAL

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RIDING ROUGHSHOD OVER NAZI WOLFPACKS

A convoy of ships plows along steadily, relentlessly. Perhaps a wolfpack will attack. Maybe it will tag a few of these sturdy freighters. But it will pay dearly. And for every ship the subs manage to sink, American industry sends **many more* out to take its place. One of the factors that is putting an end to the Axis submarine menace is the overwhelming numerical weight of the ships we are sending to sea. To achieve such a stupendous output, American industry has revolutionized shipbuilding methods . . . is speeding ship repair at a record-breaking pace.

It's one of the great accomplishments of the war! And it is typical of the endless string of victories . . . all along our production lines . . . that mark the effort of American industry to help win unconditional surrender—and quickly!

**NOTE TO THE ENEMY—Wouldn't you like to know how many?*

TODD SHIPYARDS CORPORATION
TODD COMBUSTION DIVISION
601 West 26th Street, New York City

NEW YORK MOBILE NEW ORLEANS GALVESTON
SEATTLE BUENOS AIRES LONDON



IN SHIPS OF ALL TYPES
TODD BURNERS
ARE WORKING FOR VICTORY

In countless ships, merchant and fighting, and in war plants of all types . . . wherever trouble-free, dependable combustion is a necessity . . . Todd Burners are delivering unsurpassed performance in the production of heat and power.



Buy MORE
War Bonds and Stamps

TODD BURNERS * * ON THE FIRING LINE OF AMERICA'S WAR PRODUCTION FRONT

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Save to Win
with these four simple rules
of battery care:

- 1 Keep adding approved water at regular intervals. Most local water is safe. Ask us if yours is safe.
- 2 Keep the top of the battery and battery container clean and dry at all times. This will assure maximum protection of the inner parts.
- 3 Keep the battery fully charged—but avoid excessive over-charge. A storage battery will last longer when charged at its proper voltage.
- 4 Record water additions, voltage, and gravity readings. Don't trust your memory. Write down a complete record of your battery's life history. Compare readings.

If you wish more detailed information, or have a special battery maintenance problem, don't hesitate to write to Exide. We want you to get the long-life built into every Exide Battery. Ask for booklet Form 3225.

Exide
CHLORIDE
BATTERIES

... is a vital principle
of utility operation!

Conservation of materials is no new story to the men who operate public utilities. With thrift and efficiency they have always planned for conservation.

They've squeezed the last ounce of use out of materials and equipment in their care . . . and today, that need is intensified.

One helpful principle to follow is that of "Buy to Last—Save to Win." Buy quality products and equipment, then care for it to avoid needless replacement. That conserves raw materials, labor, and space in factories. It frees these productive elements for essential war production.

THE ELECTRIC STORAGE BATTERY CO.
Philadelphia
Exide Batteries of Canada, Limited, Toronto

HEAVY ARTILLERY FOR THE WAR PRODUCTION FRONT

READY...TO SERVE YOUR NEEDS
FOR NORDSTROM VALVES

We have made tremendous progress on our backlog of orders and within a few weeks, if not by the time this message appears, we will be largely in the clear on critical steel valves. We will then have open capacity to handle new steel valve business in the sequence received, subject, of course, to the priority rating assigned.

NEED VALVES AT ONCE? Right now we have available manufacturing facilities that are not suited to the production of steel valves and we can effect immediate stock delivery of Nordstrom Semi-Steel Valves in certain sizes and figure numbers.

AIM...YOUR SIGHTS NOW ON LATE 1943
AND FIRST QUARTER 1944 CONSTRUCTION

Those booking orders now, in anticipation of late 1943 and early 1944 valve requirements will have first call on our facilities. Immediate action on your part is desirable so that we may establish firm delivery dates based upon amply foreseen needs for materials and carefully predicated manufacturing schedules.

FIRE...YOUR INQUIRIES
AND ORDERS AT US

We can handle your immediate business in many lines and orders for Nordstrom Valves of any type can be accepted with excellent prospect of delivery within a maximum of ninety days after receipt of firm specifications. The WPB lead factor for cast steel valves is 90 days!

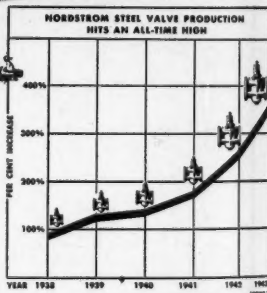


Merco Nordstrom Valve Company, in common with the entire valve industry, is emerging from a very trying period. Earlier this year the need for valves in vital wartime industries greatly exceeded all available facilities. Nordstrom was ordered to produce 600% over normal capacity during a short period and then was confronted with shortages ranging from man-power and machine tools through storage facilities and materials. These handicaps, we are pleased to report, have now been largely eliminated—thanks to a realization on the part of the War Production Board of the indispensable and unique posi-

tion occupied by Nordstrom Valves.

Our tonnage of cast steel Nordstrom Valves has shown a progressive increase month by month. Our plant capacity is now geared to a production rate never before attained in our history. We know of no other valve company that has had a greater load thrust upon it or has used more vigorous efforts to satisfy the demands of their customers.

Out of all this has come a stronger more integral Nordstrom organization—one capable of handling the immediate needs of today and with adequate post-war facilities to service an increasing circle of Nordstrom Valve users.

**MERCO NORDSTROM VALVE COMPANY**

A Subsidiary of
Pittsburgh Equitable Meter Co.

Main Office: Pittsburgh, Pennsylvania
Branches: Boston • Buffalo • Brooklyn • Chicago
Columbia, S. C. • Houston • Kansas City • Los Angeles • Memphis • New York • Oakland
Seattle • Tulsa • San Francisco

NORDSTROM VALVES**KEEP UPKEEP DOWN**

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MY TYPEWRITER DOES

*twice as much
work with an*

EGRY SPEED FEED

EGRY BUSINESS SYSTEMS COMPRISE:

EGRY SPEED-FEED. May be attached to any standard make typewriter in one minute, and with Egrý Continuous Forms, doubles operator output. One machine does the work of two.

EGRY TRU-PAK Register speeds the writing of all handwritten records. Assures complete control over every business transaction.

EGRY ALLSET Forms, the modern single set forms for speed writing all business records. Individually bound sets, interleaved with one-time carbons. ALLSETS are ready for immediate use for typed or handwritten forms.

EGRY CONTINUOUS Forms increase the output of operators by 50% and more because they eliminate time-consuming operations. Furnished with or without interleaved one-time carbons.

AND in addition to the above, there are others you'll want to know more about.

The shortage of typewriters and competent operators will be compensated for if you use Egrý Business Systems. In thousands of instances Egrý Speed-Feeds and Egrý Continuous Forms enable operators to produce twice as much work as they did before with the typewriter alone and ordinary loose forms and carbons.

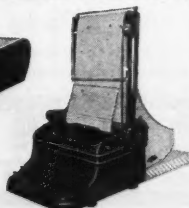
Other Egrý Business Systems for handwritten records are equally important. Investigate today. You'll be surprised at the amount of time you will save when you use Egrý Business Systems. More detailed information will be sent on request, or free demonstrations may be arranged at your convenience. There's no cost or obligation, of course. Address Department F-1028.

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THE EGRY REGISTER COMPANY • Dayton, Ohio

Egrý Continuous Forms Limited, King and Dufferin Sts., Toronto, Ontario, Canada.

EGRY TRU-PAK



EGRY ALLSET FORMS



"Sit in Writing"

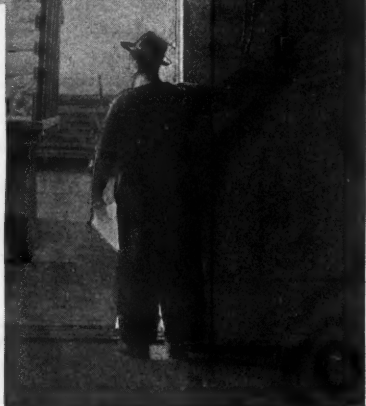
EGRY SPEED-FEED



ELIMINATE DOOR PROBLEMS for the DURATION

KINNEAR *Motor Operated* WOOD ROLLING DOORS

Eliminate door problems for the duration—and long after—with Kinnear WOOD Rolling Doors! Their coiling upward action assures highest efficiency. Years of service in hundreds of installations have proved their dependability and low operating cost. Operating vertically, they leave adjacent floor and wall areas clear at all times, saving valuable space. They coil compactly above the lintel, out of the way, out of reach of damage. And they save war-vital metals! The interlapping-slat curtain offers excellent protection. It blocks out intruders as well as wind and weather!



Kinnear Wood Rolling Doors are built in any size, for installation in old or new buildings. Available with motor or manual control. Write for details!

THE KINNEAR MFG. CO.

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Offices and Agents in Principal Cities



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THE BIG JOB

Mercoid Controls are still being built and sold, though the volume is almost entirely on industrial types. These carry the highest war priority and find their way into war plants everywhere throughout the country, where they are doing their important part in the big job of essential production.

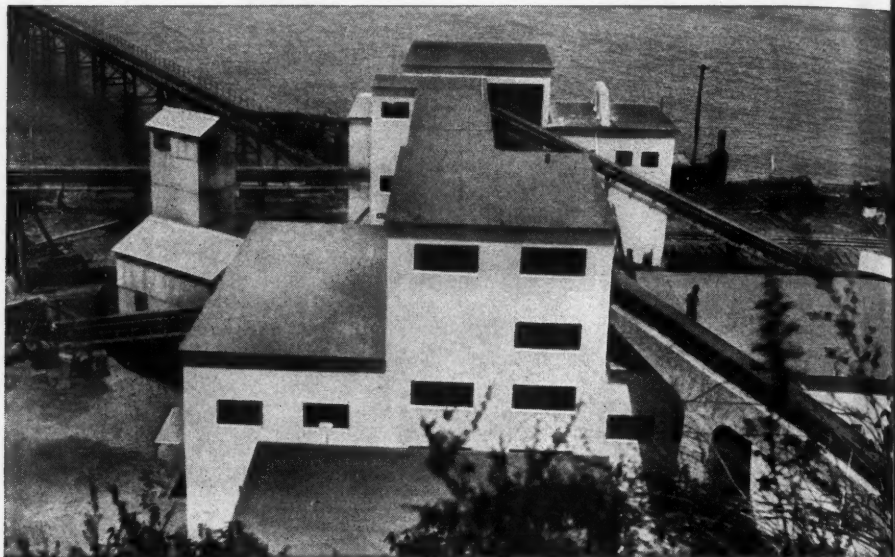


AUTOMATIC CONTROLS
FOR HEATING, AIR CONDITIONING, REFRIGERATION
AND NUMEROUS INDUSTRIAL APPLICATIONS

THE MERCOID CORPORATION, 4219 BELMONT AVE., CHICAGO 41, ILL.

FOR MATERIAL AID IN MATERIALS HANDLING . . . **It's ROBINS**

FOR M



A COMPLEX CONVEYOR SYSTEM MADE SIMPLE ... by thorough engineering

ROBINS makes: BELT CONVEYORS • COAL AND ORE BRIDGES • BUCKET
ELEVATORS • CAR AND BARGE HAULS • CAR DUMPERS • CAR RETARDERS • CASTINGS
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OUTS • GATES • GEARS • GRAB BUCKETS • PIVOTED BUCKET CONVEYORS • VIBRATING
SCREENS • SCREEN CLOTH • SELF-UNLOADING BOAT MECHANISMS • SKIP HOISTS

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• ST
MACH
UPS
TOW
LARR

BINS FOR MATERIAL AID IN MATERIALS HANDLING . . . It's ROBINS

IN Coronel, Chile, a highly intricate and elaborate conveyor system was recently completed . . . designed and manufactured by Robins.

The materials handled include coal and rock. Sub-surface coal mining is carried on 1,200 feet below the earth's surface and extending $2\frac{1}{4}$ miles out under the sea. At this level, the mined material is brought to a central dumping station by a train of fifty 2-ton cars. The cars are automatically upturned, dumped, contents weighed and re-righted by a Robins Car Dumper . . . *without uncoupling the cars.*

The material falls into a Track Hopper leading to a Shaking Feeder which delivers it, at uniform rate, to the first of a series of 8 conveyors, one of which is 3,880 feet long—the aggregate of all being more than two miles long extending up to and along the earth's surface.

The last of these conveyors delivers the material to a screening station. Here fines and refuse are removed and the coal is sized on a series of Robins Gyrex Screens. The fines and segregated sizes are then conveyed to storage, or to railroad cars or to ships, as desired—in any combination of fines and sizes. When delivered to ships, the material travels along a 1,000-foot Dock Conveyor to reach a Shuttle Conveyor which is mounted in a hinged cradle so that the loading operations may accommodate changing tides and diverse drafts of ships.

This installation indicates how Robins engineering overcomes complex problems—reducing them to an efficient, ingenious, simple series of operations. Perhaps you are faced with a difficult conveyor problem. Your inquiry is welcome. Write Dept. PF-10 for full details and, if you like, summarize your problems and requirements. We can work directly with you or collaborate with your own engineering consultants.

ENGINEERS • MANUFACTURERS • ERECTORS

ROBINS
CONVEYORS
INCORPORATED

Founded in 1896 as Robins Conveying Belt Co.

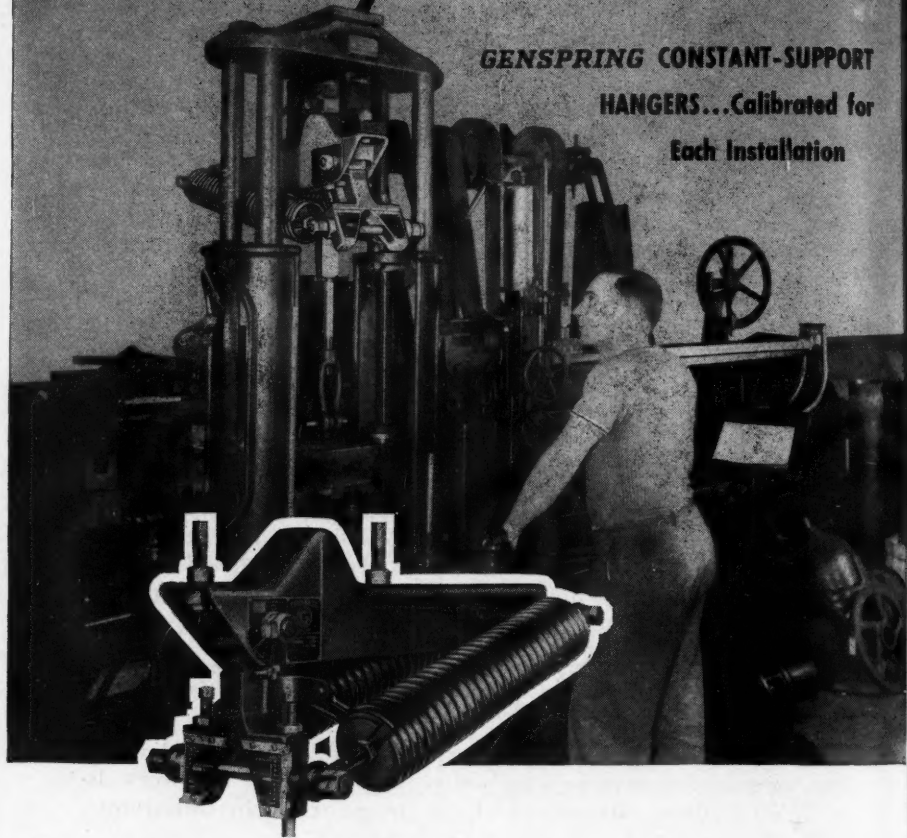
PASSAIC • NEW JERSEY

• STORAGE AND RECLAIMING
MACHINES AND SYSTEMS • TAKE-
UPS • LOADING AND UNLOADING
TOWERS • TRIPPERS • WEIGH
LARRIES • WINCHES • WINDLASSES

MATERIALS HANDLING MACHINERY

"Floating" PIPE-SUSPENSION

**GENSPRING CONSTANT-SUPPORT
HANGERS...Calibrated for
Each Installation**



Before shipment to you, every GENSPRING Constant-Support Hanger for power piping is individually tested at the factory under load-and-travel conditions that duplicate the actual service specifications. However, should you find it necessary, field adjustments up to $\pm 16\%$ of the hanger's rated load are easily made.

These are only two of the manufacturing and design features that make GENSPRING the outstanding hanger for today's high-temperature power service. Through unique engineering design GENSPRING

Hangers provide constant support for piping in every "hot" and "cold" position. The weight of pipe is always in perfect balance...transfer of vertical vibration to the pipe structure is eliminated...the safety factor of the complete piping system is effectively maintained.

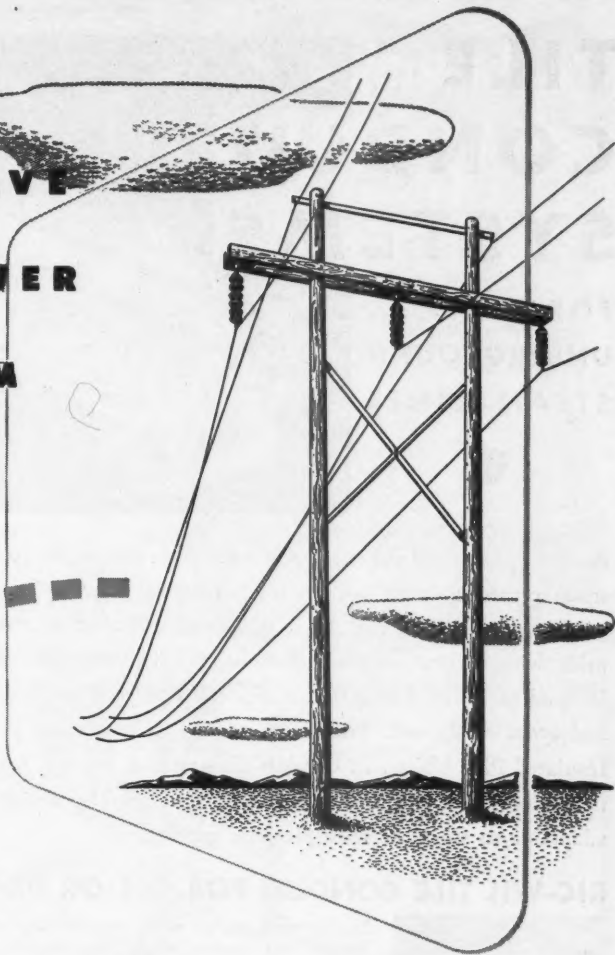
Investigate the exclusive advantages of GENSPRING Constant-Support Hangers available to support loads from 250 to 8500 pounds. Grinnell Company, Inc., Executive Offices, Providence, R. I. Branch offices in principal cities.

GENSPRING CONSTANT-SUPPORT HANGERS BY

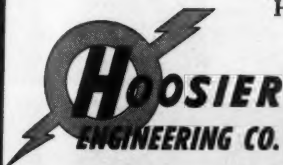
GRINNELL
WHENEVER PIPING IS INVOLVED

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IF YOU HAVE A MANPOWER PROBLEM



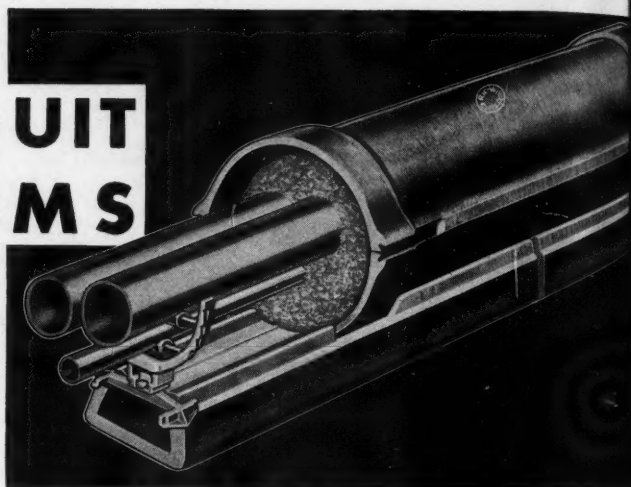
... let us help you. Our trained men and special equipment combine to help you meet today's increased demand for power. Whether yours is a problem of erection or maintenance ... regardless of distance or terrain ... you'll find Hoosier service efficient and economical.



ERECTION and MAINTENANCE OF TRANSMISSION LINES
NEW YORK 46 S. FIFTH ST., COLUMBUS, OHIO CHICAGO

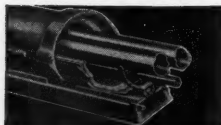
TILE CONDUIT SYSTEMS

FOR
UNDERGROUND
STEAM LINES



Ric-wil, pioneer in the tile conduit field, has served the country's needs on underground steam protection with outstanding leadership since 1910. Today, with material supply, production facilities, and plant personnel subjected to severe pressure, it is a point of pride with us that traditional standards of quality are being scrupulously maintained. In spite of heavy demands, we are well equipped to make quick deliveries on all sizes and types of Ric-wil Tile Conduit, as well as on our complete line of Prefabricated Insulated Pipe Units . . . Conduit illustrated is Ric-wil Standard Tile with filler insulation. Heavy duty Super-Tile and Cast Iron are also available for this type, and all are adaptable to single or multiple pipe systems.

RIC-WIL TILE CONDUIT FOR OIL OR PROCESS LIQUIDS



In this system, conduit is insulated from the exterior, but individual lines are not insulated from one another. A steam or hot water line can thus maintain temperature to keep liquids flowing in the other lines. Insulation is a diatomaceous earth lining, moulded and keyed to inside circumference of tile. May also be used with fibre insulation for steam heat, power and super-heated steam. Applicable to Super-Tile and Cast Iron.

RIC-WIL PREFABRICATED INSULATED PIPE CONDUIT

Completely factory-prefabricated units including pipe and insulation as specified are furnished in convenient 21 foot lengths for speedy installation. Conduit is helical corrugated, coated with asphalt and wrapped with asphalt-saturated asbestos felt. This system is also available for oil or process liquids, and is adaptable to overhead as well as underground installations.

Many other types of Ric-wil conduit are available to meet individual requirements. Write for complete information.



RIC-WIL INSULATED PIPE CONDUIT SYSTEMS
THE RIC-WIL COMPANY · CLEVELAND, OHIO

AGENTS IN PRINCIPAL CITIES

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DAVEY TREE TRIMMING SERVICE



1846

1923

JOHN DAVEY

Founder of Tree Surgery

Guarding Good Will

Good public relations aren't accidental. Davey men can help with trained workers who are tactful, intelligent and anxious to please. Davey men build and maintain good will for you. Try Davey Service.

Tree interference may aid the Axis

DAVEY TREE EXPERT CO.

KENT, OHIO

DAVEY TREE SERVICE

Maximum H₂S removal per lb. of Oxide!

• Lavino Activated Oxide is made specifically for maximum sulphur removal... is not just a "satisfactory" purifying medium merely by virtue of incidental properties, but is made especially for maximum capacity and activity, maximum trace removal and shock resistance. As such, we do not believe you will find Lavino Activated Oxide has any close rival — comparing cost, comparing performance and comparing savings.

We'll be glad to tell you all about its remarkable record; just write a note on your letterhead to

E. J. Lavino and Company



1528 Walnut St.

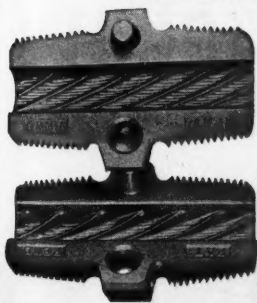
Philadelphia

Penna.

SAFE-LINE

WIRE ROPE CLAMPS

THAT'S WHY
IT NEVER
SLIPS



ONE
Clamp Does It



FOR ROPE SIZES 1/8 TO 3/4

Ask
Your
DEALER

TESTED and APPROVED for use on high tensile strength wire rope, by Underwriters' Laboratories—official testing laboratories for insurance companies.

ONE SAFE-LINE CLAMP is designed to hold any wire rope. It never slips.

WIRE ENDS ENCLOSED. No needle-sharp wire ends, nuts and bolts exposed to injure workman's hands.

STREAMLINED! Will not catch on clothing nor on mechanical apparatus.

Write for details of this—the only PERFECTED wire rope clamp on the market. Used by the Armed Forces and thousands of industries. Millions in daily use.

NATIONAL PRODUCTION CO.

4568 ST. JEAN AVENUE

DETROIT 13,

MICHIGAN



Seasoning the Axis Stew

While our boys at the front are cooking up a "stew" for the Axis, we're busy right now with the seasoning. Here at Robertshaw we've turned from thermostats to such condiments of warfare as fuses for hand grenades, primers and ignition cartridges for rockets, and boosters and

shells for the Army and Navy aircraft and anti-aircraft guns.

Furthermore, we're now drawing on our years of experience in thermostat development and manufacture to guide us in the rapid production of precision instruments for aircraft.

And as our Government still

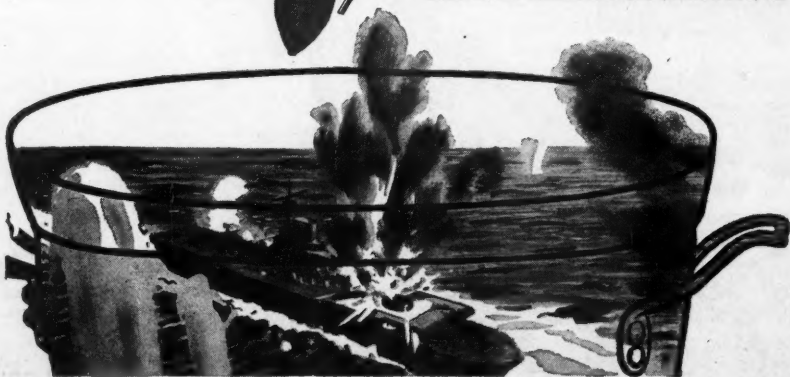
needs Robertshaw thermostats for official projects, we're still turning out a limited quantity for that purpose — just enough to keep our engineering and research departments busy in working out new and better models for the new and better days when the boys come home.

For High Achievement in the production of war equipment.



ROBERTSHAW

ROBERTSHAW THERMOSTAT CO., YOUNGWOOD, PA.



"CLEVELANDS"

Dig Them All...



TRENCHES For:

Gas Lines	Sewers
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Air Fields	Conduits
Water Lines	Building Foundations
	Drain Tile

Finely balanced, correctly designed, powerful, rugged, fast, easily maneuverable, and highly resistant to wear and abuse, "CLEVELANDS" represent the utmost in economy and efficiency—that's why they are today delivering highly efficient, low cost performance day in and day out on many U. S. Government projects and war emergency pipe line ditching jobs.



THE CLEVELAND TRENCHER COMPANY

20100 ST. CLAIR AVE.

"Pioneer of the Small Trencher"

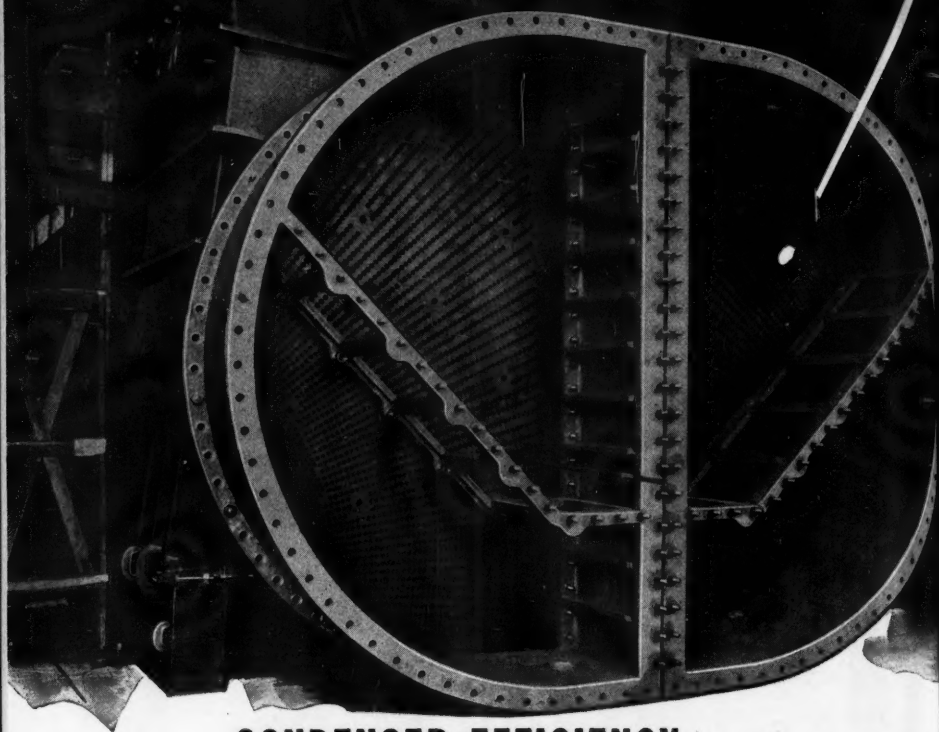
CLEVELAND, OHIO



"CLEVELANDS" Save More... Because they Do More

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It's a matter of tube layout



CONDENSER EFFICIENCY depends upon many factors of first importance being the arrangement of the tube banks. This is a matter which has been the subject of years of research and development by Elliott engineers, the results of which are amply demonstrated in performance of Elliott condenser installations at various important utility power plants.

The unit illustrated has over 22 miles of tubes, so placed as to give maximum condensing effect at lowest pumping and auxiliary cost.

Talk over your next condenser job with Elliott engineers. They will have suggestions of value.



A star has been added to the Army-Navy "E" flags flown by both the Jeannette and the Ridgway plants of Elliott Company.

ELLIOTT COMPANY
Heat Transfer Department, JEANNETTE, PA.
DISTRICT OFFICES IN PRINCIPAL CITIES

ELLIOTT *builds good* **CONDENSERS**



Utilities Almanack

Due to war-time travel restriction, conventions listed are subject to cancellation.



OCTOBER



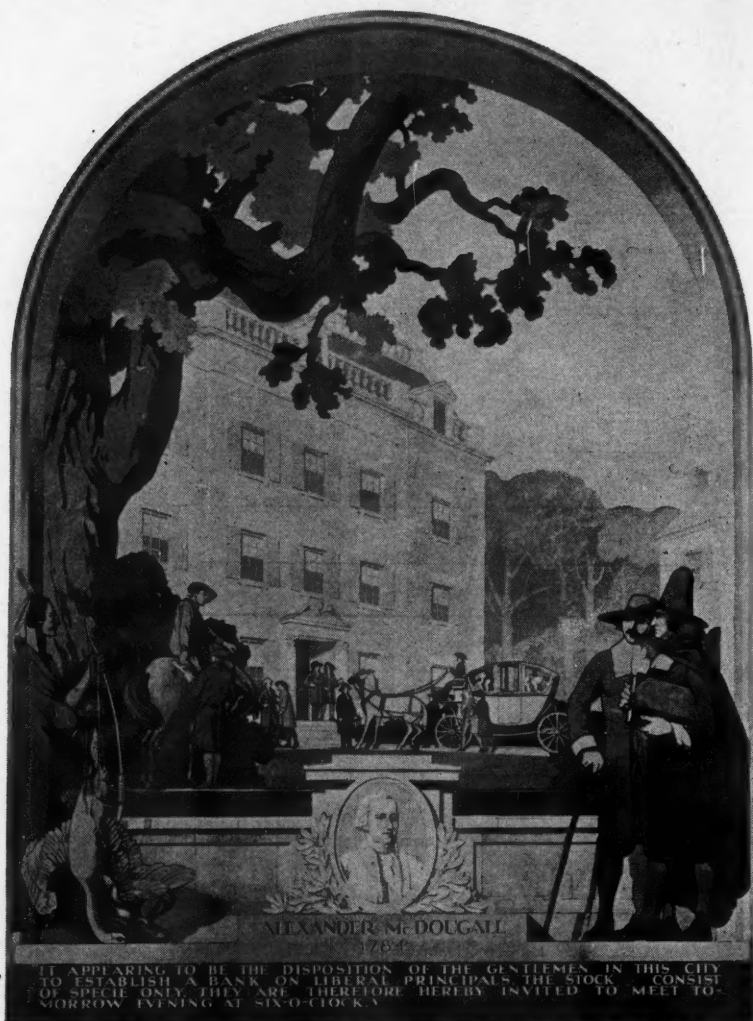
28	T ^h	¶ American Gas Association concludes meeting, St. Louis, Mo., 1943.	☉
29	F	¶ National Electrical Manufacturers Association concludes meeting, New York, N. Y., 1943.	
30	S ^a	¶ Arkansas Municipal League will hold meeting, Little Rock, Ark., Nov. 16, 17, 1943.	
31	S	¶ New Jersey State League of Municipalities will hold annual conference, New York, N. Y., Nov. 18, 19, 1943.	



NOVEMBER



1	M	¶ Engineers' Society of Western Pennsylvania opens water conference, Pittsburgh, Pa., 1943.	
2	T ^u	¶ National Tax Association will convene, Chicago, Ill., Nov. 20-22, 1943.	
3	W	¶ Investment Bankers Association convenes, New York, N. Y., 1943.	
4	T ^h	¶ Virginia Independent Telephone Asso. convenes for session, Roanoke, Va., 1943.	☉
5	F	¶ American Water Works Association, Virginia Section, will hold fall conference, Roanoke, Va., Nov. 22, 23, 1943.	
6	S ^a	¶ Oklahoma Telephone Association will hold meeting, Oklahoma City, Okla., Nov. 29, 30, 1943.	
7	S	¶ American Society of Mechanical Engineers will convene, New York, N. Y., Nov 30-Dec. 3, 1943.	
8	M	¶ North Carolina Independent Telephone Association starts meeting, Durham, N. C., 1943.	
9	T ^u	¶ National Association of Manufacturers will hold meeting, New York, N. Y., Dec. 6-10, 1943.	
10	W	¶ South Carolina Independent Telephone Association convenes, Chester, S. C., 1943.	



A mural by J. Monroe Hewlett, reproduced through courtesy of the Bank of New York

In the foreground an Indian hunter with trophies of the chase faces a Puritan and a "Knickerbocker"—representing the two racial strains prominent in the early citizenship of New York. In the background is the Walton House, first home of the bank. A medallion portrait of General Alexander McDougall, first president of the bank, stands against the parapet.

Public Utilities

FORTNIGHTLY

VOL. XXXII; No. 9



OCTOBER 28, 1943

Wanted: A National Fuel-gas Policy

The formulation of such a policy is inevitable in the opinion of this author. He urges, therefore, that the affected industries should take steps immediately for intelligent participation in the outlining of a national policy which will be least burdensome to such industries and most beneficial for all of us.

By FRANCIS X. WELCH

WE are learning some valuable lessons from this war in the realm of fuel utilization and fuel conservation. We are learning that fuel, whether in the form of petroleum, gas, coal, and, to some extent, hydroelectric power—in addition to baser forms of fuel—must be considered as a single problem in terms of our national reservoir for future use.

When we learn that a single American flying fortress bomber mission to Germany uses as much gasoline as every automobile in the state of Mary-

land would ordinarily use for an entire year, it makes us realize that the war is depleting our national oil supply far ahead of industrial expectation. When the National Resources Planning Board tells us that the synthetic rubber program may require a degree of consumption of natural gas (for the single purpose of expanding production of carbon black) which may eventually exceed the consumption of all residential uses of natural gas, the same lesson is brought home to us on another fuel front.

PUBLIC UTILITIES FORTNIGHTLY

Even in the area of our national coal reserves, of which we once spoke glibly of having three hundred to four hundred years' supply, the accelerated demands of war production, including the exporting of supply to occupied nations such as Italy, bring home the lesson on still another front.

For technical reasons, the problem of estimating the reserves of natural gas and petroleum are somewhat related. Aside from that, various appraisals of just how much petroleum and gas supply we have left are most conflicting. Secretary of Interior Ickes gives us alarming estimates to the effect that our cheap petroleum production fields in continental United States may be exhausted in little more than a decade, unless new and as yet undiscovered fields are developed. Some experts are now talking about our coal reserves in terms of less than one hundred years, as contrasted with the old comfortable three to four hundred years' estimates.

ONE of the first things we need, in the way of a unified national fuel policy, is an over-all appraisal, based on the best methods that engineering science can bring to bear, on just how much reserves we have left and in what form. Such an estimate should be entirely divorced from influence of political expediency or industrial rivalry. That much is elementary—one might say, preliminary.

Our fuel problem is obviously not the prerogative of any one industry. No fuel policy can discount the realistic factors of industrial competition among the gas, the electric, the petroleum, and other interested business groups. The over-all public interest

should be decisive, not only with respect to a program of regulation for the most economic utilization of each form of fuel, but also with respect to a conservation program which will preserve an equitable future heritage for generations as yet unborn.

No wonder grumbling has already been heard in the U. S. Senate over the fact that the United States, with only 40 per cent of the petroleum-producing capacity of the Allied Nations, is contributing 60 per cent of the allied effort, while oil fields in Iran and other places much nearer the theaters of war may not be contributing all they could.

It is easy enough to dismiss such speculation on grounds of military necessity or military secrecy. But if a postwar inquiry reveals that an unnecessarily large amount of petroleum was taken away from American oil fields, it is difficult to imagine just what such a report could accomplish other than locking the barn door after the horse has departed. Every gallon of crude petroleum extracted from our fields is just one gallon more deducted from an irreplaceable national supply. In other words, a national fuel policy to be effective should get under way as soon as possible.

THERE are four fundamental points which any well-organized national fuel policy would be almost compelled to emphasize:

1. It would consider the necessity for conserving high-grade and relatively scarce resources, and the development of low-grade, more ample resources. It would also determine such a conservation program realistically, in terms of man power and ma-

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materials, financial savings, and the elimination of waste in production by more efficient consumption methods.

2. EDUCATION, as well as regulation, would be necessary in order to learn the better use of fuels and to carry a persuasive message dealing with such research to industry at large and to the consuming public.

3. REGIONAL integration and industrial coördination—however fancy and abused those words may appear in the light of some of our more doctrinaire bureaucratic pronouncements in the past—would be most essential. In plain language, this would mean not only the development of hydroelectric energy on an intelligent watershed basis, but the acceptance of some common plan among gas, electric, petroleum, coal, and other fuel producers so that each industry would know its production boundaries and its industrial responsibilities. Within these boundaries the competitive factor need not be eliminated. On the contrary it could be more intensively and more intelligently cultivated in the interest of the common weal. Such planning would also extend to secondary consumer industries such as the manufacture of motor cars, boats, airplanes, appliances, space-heating devices, and so forth.

4. THE Federal government must stand in the rôle of umpire—not in the rôle of a partisan rival. Because of its already widespread operations of hydroelectric projects, based on its own bookkeeping with direct access to the Federal Treasury, our government is now handicapped in this regard. Just how a divorce between the Federal rôle of arbiter and its rôle of operator can be accomplished, is difficult to envision. But the problem is not insurmountable. In any event, over the long range, neither the public nor industry is likely to have confidence in a government which presumes to make the rules whereby it also assumes to operate politically in competition with private industry.

So much for general principles which are perhaps the easiest of all to talk about in any broad discussion of national planning. The question is bound to arise in the minds of practical men as to just why planning is necessary at all. Secondly, why should the Federal government or any other government be the necessary party to implement such plans?

There are probably not many such practical men who would seriously dispute the necessity for planning of some sort. But they would like to be given a reason for it. The gas industry, in both its natural and manufactured



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branches, has always been concerned with the problem of making the most of potential resources. It can be congratulated for taking an early lead in the discussion of national fuel policy.

For many, many years the annual reports of the proceedings of the American Gas Association show a deep-seated concern on the part of the industry with such questions as better utilization, more economical production, elimination of waste, and interconnection of regional areas. A recent action of the War Production Board, authorizing the use of critical materials for the building of a natural gas pipe line from the Texas fields to supplement the rapidly depleting Appalachian supply, is the fruition of studies and recommendations made by various members of the natural gas industry long before Pearl Harbor.

It might be noted, as a fortuitous circumstance, that the WPB and the Federal Power Commission authorized this first of a possible series of continental pipe-line trunks to be developed as a function of private industry instead of a direct government function, as recently suggested by the now defunct National Resources Planning Board. The intervention of government operation in the natural gas pipe-line field would only have complicated the national fuel policy picture by making the government a competitor on two fronts—gas and electricity—instead of the hydroelectric front alone, as at present.

Yes, planning is necessary for the obvious reason that a failure to plan would bring about periodic, chaotic conditions and economic dislocations which would inevitably accompany the exhaustion of any one or more of our

basic fuel resources in any one or more areas. Eventually, perhaps, it will be impossible to avoid the exhaustion of such fuel supplies even with the very best planning. But, in that event, preparations can be made in ample time to soften the blow by widening the area of its impact and putting into operation devices of substitution and economy which will make the transition hardly noticeable.

It stands to reason that if we continue to make automobiles in large numbers which will burn gasoline at 10 miles a gallon, when we have at hand well-tested engineering plans for motors which will give comparable performance at 50 miles a gallon, we are simply being profligate with a God-given resource; and, as a nation, we will inevitably regret our wasteful ways quite bitterly.

BUT, necessary as planning is, it does not follow that it should be the exclusive function of the Federal government, or that much of it cannot originate and attain a comparative state of perfection within the common councils of the affected industries. It stands to reason that if the four great fuel and energy industries—gas, electric power, petroleum, and coal production—using their best brains and resources, were to arrive at a mutually acceptable plan, it would command more public confidence than an over-all policy arrived at independently by a Federal board and imposed upon such industries on a mandatory basis.

Such a government plan, without benefit of industrial collaboration, is too likely to be the product of political theorists, more intent on ideological objectives than practical regulation.



Unit Operation for Natural Gas Pools

"THERE should be unit operation for all new pools and for old pools requiring repressuring for economical operation. The industry itself has long recognized the benefits of unit operation. But because of complications arising from the number of varied interests in the field, and the old-fashioned views still taken by the Supreme Court or antitrust proceedings arising out of pooling operations, progress along this line has, as yet, been far short of what could be accomplished."

There is room also—much room for the participation of private research disassociated from any particular industry, or group of industries. Respected organizations such as the Brookings Institution, and even individual experts, should be listened to in devising an over-all pattern for national fuel policy. It might even be possible for the Federal government to delegate much of the original planning to outside agencies and much of the regional administration to local boards such as the Texas Oil and Gas Division—a state organization which has already won its spurs in practical day-to-day regulation of fuel exploitation at its source.

But in some form, even though it be only the final seal of approval by an agency of the Federal government—much in the manner of a United States

District Court's confirmation of a master's report—the authority of the Federal government would seem to be imperative in the promulgation of any national fuel-gas policy. To place the responsibility anywhere else is to encourage regional rivalry and strike a blow at national uniformity of action, which would have to be the very heart and soul of any such over-all plan.

MENTION has been made of the difficulty of divorcing the Federal government from its joint rôle of umpire and operator. Because Federal hydroelectric operations are so closely interwoven with other Federal multi-purpose operations such as irrigation, navigation, and flood control, it is hardly likely that any Federal administration in the future, however conservative its background, would be

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disposed to turn over such Federal hydroelectric operations *in toto* to private industry.

However, a certain amount of backtracking, from the present trend toward putting the Federal government in the power business all the way from the turbine to the consumer's drop wire, might serve to ease the Federal government out of the operating picture. The distinction made by former Governor Alfred E. Smith of New York to the effect that the state of New York should generate but that private industry should transmit and distribute power from such multipurpose projects as the proposed St. Lawrence waterway development is a possible pattern for further consideration.

More promising, however (from the present outlook), in relieving the Federal government from the political pressures which are bound to accompany its operations as a sort of super holding company in the electric power field, is the fairly recent revival of home rule sentiment. In other words, properties presently operated by the Federal government need not be turned back to private enterprise. They could be turned back to local or regional public bodies, thereby getting the Federal government, as such, out from under its present capacity as the biggest single operator in the electric power field in the United States.

This home rule sentiment takes two forms. Either one or a combination of both might be employed. First, there is TVA Chairman Lilienthal's idea of emphasizing regional autonomy even though the public project, as in the case of the TVA, is ostensibly a Federal operation. Regional autonomy, under such circumstances, might be more

impressive if the state governors or local voters had some say as to the membership of the operating boards or some control over policy decisions.

Waiving discussion about that, however, another way to get the Federal government out of the hot spot as a competitive operator for purposes of assuming a disinterested position on making a national fuel policy would be to turn over the electric power operating phases of the Federal projects to the states, large municipalities, or perhaps regional boards composed of two or more states formed by compact, as provided in the Constitution.

FOR the gas industry, both natural and manufactured, the implications of a national fuel-gas policy immediately point toward certain well-defined objectives:

1. THERE is the encouragement of more scientific production methods to recover a larger proportion of both petroleum and natural gas reserves. Since Pearl Harbor, drilling for petroleum and natural gas has been regulated by conservation orders of the WPB, which restrict the spacing of wells and encourage a higher yield.

2. THE next step: There should be unit operation for all new pools and for old pools requiring repressuring for economical operation. The industry itself has long recognized the benefits of unit operation. But because of complications arising from the number of varied interests in the field, and the old-fashioned views still taken by the Supreme Court or antitrust proceedings arising out of pooling operations, progress along this line has,

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as yet, been far short of what could be accomplished.

3. THERE is the encouragement of more efficient utilization of gas through improvements in the design of the consumer equipment. The American Gas Association has already made a long stride towards this objective with its establishment of the Institute of Gas Technology. The gas range, the space heater, the gas-consuming refrigerator, and other appliances of the future must be economical for two reasons: First, as heretofore, they must be economical in order to win out in competition with similar appliances operated by electricity, fuel oil, etc. Second, they must protect the resources of the industry through their accent on the conservation of natural gas supply and, in the case of manufactured gas, conservation of supplemental raw fuels such as coal and oil.

4. WASTE of gas in conjunction with oil production must be eliminated. In spite of effective measures taken in recent years, there are still areas where gas is produced as a by-product of petroleum or natural gas extraction and is either burned uselessly or blown into the air. Any intelligent national fuel-gas policy would forbid the production

of natural gasoline where there is no market for the coincidental natural gas except under those circumstances where producers are able to return the gas, or much of it, to underground reservoirs, thereby maintaining pressures for the prolongation of flowing wells.

5. TRANSMISSION of natural gas between areas should be developed in accordance with an over-all plan for obtaining the broadest possible consumer use. The recent plans for linking the Texas fields to the Appalachian area is a case in point. Here the well-established distribution facilities of the Appalachian field which penetrate to cities along the eastern seaboard made it obviously desirable that the Tailing Appalachian supply should be buttressed by the relatively less utilized supplies in the Texas fields and connections south and southwest.

But there are other demands for bringing natural gas pipe lines into sparsely populated areas where local fuel in the form of coal and even shale can be used to carry on manufactured gas production. Obviously, each area which is blessed with local natural gas resources has a certain natural right to protection against unwarranted stripping, diversion, and exportation of its heritage. One of the most delicate



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problems to be solved under a national fuel-gas policy would be the adjustment of such demands for local priority as distinguished from export markets.

6. ANOTHER common problem, which should be attacked by the industry as a whole, is the finding of, or provision for, underground storage facilities for natural gas near areas of consumption. This is apparently another field of enterprise already tried but lagging for the simple reason that legal and other barriers have heretofore prevented a uniform attack upon it by the gas industry as a whole. Many uses to which liquefied natural gas has been put during the war also suggest a supplementary possibility of arranging for surface storage of natural gas supply in liquefied form along the lines already successfully explored in Ohio. Further promotion of butane and propane (bottled gas) for more "rural gasification" is also in the picture.

SUCH over-all planning as has been done to date by agencies of the Federal government has been quite unimpressive. The National Resources Planning Board after making some general studies of fuel and energy resources veered off into a direction of such fantastic ideological reform that it lost public confidence. This was reflected in the recent action of Congress in putting the NRPB to death by refusing to appropriate another penny for the continuation of its work. Elsewhere in the Federal government we have a case of too many cooks and very little definite responsibility.

The recent agreement between WPB Chairman Nelson and FPC Chairman Olds settled jurisdictional matters

over the natural gas program as far as the war effort was concerned. But neither the FPC nor the WPB has shown any clear-cut authority to take the lead in formulating an over-all plan for the future.

In the Interior Department, Secretary Ickes, in the triple capacity of Solid Fuels Administrator, Petroleum Administrator for War, and superior head of the Reclamation Bureau, in addition to many, many other duties, is hardly in a position to formulate over-all plans for the future—especially in view of the fact that his Reclamation Bureau is actively operating in the electric power business.

Holly Poe, until recently natural gas chief for the Petroleum Administrator for War, has shown considerable ability and breadth of vision in handling the difficult controls of the natural gas industry as they pertain to the war effort. Because of the widespread respect for his competence, Mr. Poe might be an admirable candidate to engineer plans for the future. But his present capacity is obviously too limited for serious effort in that direction.

As already stated, the part the gas industry plays in the national fuel policy is but a single front. Corresponding impacts of such a policy along other fronts is likely to make drastic changes in our prevailing methods of doing business—all kinds of business.

Instead of the 50-gallon-an-hour automobile motor made of light metals with an even lighter plastic body already suggested, we may see the widespread development of Deisel motors in the automotive industry. And if the petroleum reserves begin to fail at the rate at which some of the more pessi-

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mistic prophets predict, use of petroleum for some pleasure cars and boats in the remote future might be dispensed with entirely in favor of surface vehicles powered by electric batteries charged nightly during off-peak hours.

This is not a forecast but sheer speculation. If it sounds too much like Sunday supplement sensationalism, consider Secretary of Interior Ickes' grim prediction that our margins of cheap petroleum reserves amount to little more than a decade. If that is

true, or even nearly true, something will have to be done. We cannot go back to the old ways of using all kinds of fuel and energy on an unplanned highly competitive basis, with little or no thought to the future or conservation.

A national fuel-gas policy is in prospect whether we like it or not. The time is ripe for thinking about it in such a way as to make it less burdensome to the industries involved and most beneficial for all of us.

Postwar Competition and the Gas Business

ONE of the vitally important postwar problems facing the gas industry will be that of meeting competition with other fuels, says C. B. Sorenson, president of the Indiana Gas Association, in an article in a recent issue of *Gas Age*. Mr. Sorenson lists ten points for consideration in meeting this competition:

1. The gas industry must keep pace with anticipated new home construction on a rather extensive scale.

2. It must face the problem of influencing customer preference toward gas, both in the home and commercial establishments, in the face of extensive advertising now being done by competitive fuels.

3. It must consider the possibility of having gas appliances for the "four big jobs" included in the original financing when new homes are built.

4. It must determine what type of appliance will best meet customer preference and what new designs and features would have the best customer acceptance.

5. A study of marketing methods could very profitably be made prior to the time the information is actually needed.

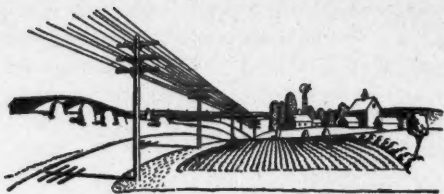
6. The industry must determine what would constitute an adequate advertising program.

7. Man power must be trained. This includes not only company salesmen but some degree of assistance for dealers.

8. Determination must be made whether a dealer-financed plan is necessary and if so what it shall be.

9. To what extent can built-in appliances be included in new homes?

10. To what extent should the "all gas home" be promoted on a unit sales plan?



War Service for Farmers and Small Businessmen

Campaigns started by Pacific Northwest electrical companies before defense proved the right thing for war. Mechanizing the farmer, and getting sub-contracts for small concerns. Just the thing for coming competition with Federal water-power "juice."

By JOHN MAPPELBECK

HEAVY, heavy hang over the heads of Pacific Northwest electrical companies these three facts:

1. Government water-power projects like Bonneville dam are enormously increasing the production of current.

2. To sell this current, the government is organizing public utility districts which will buy the "juice" wholesale, and distribute it over lines paralleling those of the corporate utilities and, of course, at lower rates.

3. The Pacific Northwest is not a large power consumer. Its industries are not yet developed. The chief customers are householders, commercial users, small manufacturing plants, and farmers.

If price alone determined the value of electricity, the private companies would be handicapped in competition.

But along with current goes service, and more than once in the past service added to the raw product has made the

public willing to pay more money for higher value. The outstanding instance of that is the absorption of local telephone companies by the Bell system, with statewide and national connections that make a telephone more serviceable—and often at no advance in rates.

Facing these facts, two northwestern power companies are laboring mightily to be genuinely serviceable to the people in their territories—the Pacific Light and Power Company, Yakima, Washington, and the Eastern Oregon Light and Power Company, at Baker, Oregon.

Before the defense period, they had started going out into the highways and byways, to find out what they could do for what, in England, are called the "little people." Now they are able to do much more because there is so much more to be done.

WAR SERVICE FOR FARMERS AND SMALL BUSINESSMEN

PACIFIC Light and Power started with the farmers seeking to build load that would permit extension of rural lines.

There were two lines of approach. The obvious one was to sell the farmer appliances—an iron for his wife, a small motor for his workshop. The other approach was to help him electrify his farm for greater productivity. A very different thing from appealing to him with mere electrical comforts, and one that involved going into his operating budget.

So, instead of selling washing machines and fans, the company has advocated milking machines and electric brooders. Comfort appliances mean instalments, often a strain on farm income. Productive equipment means lower costs, additional production, more income to pay for the electrical comforts that follow along as a natural sequence.

"Education" is the ill-fitting word generally used for this kind of effort. The company based its promotion campaigns on the farmer's ability to build things for himself, and through field men distributed plans for home-made electrical brooders, and demonstrated the appliances that cannot be tinkered, like milking machines. These better tools were keyed to costs and budgets, with particular attention to the small farmer who believed that he could not afford them. It was shown that he could not afford to try making money without them. This policy was based on experience in selling country people the electrical "dewdads," and getting poor results.

Eastern Oregon Light and Power approached the farmers through the farm equipment dealers in territory

where, before the defense period, surveys showed that there were potential customers but not yet electrically minded enough to warrant building new lines.

DEALERS were offered counsel on the farm applications of electricity, and given names of farmer prospects secured by the company through its sales contacts. The dealers' salesmen were also trained in the technical presentation of electrical equipment, learning how to answer questions and demonstrate.

Results were so good that, by 1936 with dealers making money it was decided to induce them to carry electrical equipment in stock—not easy.

One appliance was selected to spearhead this advance—a chicken brooder. The typical small farm in a region where milk, butterfat, eggs, lambs, and hogs are depended upon for the cash revenue, and profit—if any—has endless chores to keep the whole family busy. An electrical brooder for the newly hatched chicks makes one of these chores as nearly automatic as it is possible to go with living creatures. Farm customers were converted to electrical brooding so fast that, in a few months, the equipment dealer carried them as casually as harrows and plow points.

Next, poultry-house lighting was featured, something new in that region. As this was chiefly a wiring job, depending on proper installation for results and economical use of current, the company put in a few demonstrations on farms selected for being handy to many farmers. Cost figures on egg production with and without lighting were presented to those who came to

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see the thing working. Soon, lighted poultry houses became the rule, and unlighted ones the exception.

THEN, something definitely new was selected for promotion—an electrical lamb brooder. It had to be specially designed with the aid of the Eastern Oregon Livestock Experiment Station, at Union. Today, 4-H farm boys, organized by the company along original lines, build these brooders and sell them for cost of materials.

An electrical grain cooker, to take over another chore of the winter months, was designed and demonstrated and, through fairs, talks at farm meetings, and other devices, the company introduced milking machines, feed grinders, pig brooders, water systems, and other conveniences. The start was always modest, the farmer was encouraged to look into such equipment before installing it, and everything was well buttressed with cost data. Farm people soon understood that the company was not trying to sell current, primarily, but to sell it after further mechanization of the farm. Mechanization does not have to be sold—the American farmer simply wants to know how to achieve it with in his means.

Eastern Oregon Light and Power

used boy energy to sell electrical energy by starting a 4-H Rural Electrical Club in Union county, territory badly needing electrification. Six boys from widely separated areas in the county were chosen for training in rural electrification principles, studying projects, solving problems, paying attention to the financial factors as well as the electrical, working from the viewpoint of the farmer who wants to know whether he can afford a given type of electrical equipment. Then these boys became advisers to the farmers in their areas, and together made up an advisory committee for the county as a whole. They made their headquarters at the county farm agent's office, and were aided by pamphlets publicizing the farm uses of electricity, with cost figures. Each boy had literature bearing his name, address, and telephone number, with an invitation to consult him.

FOR boys and girls who wanted to lead an electrification program on their own home farms, a fund was started, lending money at 4 per cent for approved projects, and all interest goes to swell the fund, which is handled through the county agent's office. In time, this fund promises to make 4-H clubs self-supporting.



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WAR SERVICE FOR FARMERS AND SMALL BUSINESSMEN

By enlisting the boys and girls, as well as the farmers and equipment dealers, the company has tapped co-operative energy of high potential. Electrification is developing among the customers themselves. The company occupies a secondary place as a seller of current, is primarily a source of electrical information, and stands upon its ability to render service. This is undoubted public relations as they should be, and augurs well for the difficult competition ahead.

Actual war brought confusion to the Oregon farms. Increased food production was urged, while farm boys were being drafted, and farm equipment put on priorities when obtainable at all.

To help farmers, the company set up an information exchange bureau, inviting farmers to list electrical equipment they wished to buy or sell. The bureau disclaimed responsibility for the condition of equipment that might be listed, and kept aloof from the buying and selling, simply putting people in touch with each other. The response was far greater than had been expected. Much unused equipment came to light and passed into the hands of farmers who could put it to work immediately. Equipment dealers listed all new and used equipment in stock. No charge was made for the information service, which was conducted by mailing out reply cards to all rural customers and paying the postage on their reports. The company attended to all office detail involved in breaking down reported equipment by types and localities so that buyers and sellers could be put in touch with the nearest sources.

LIKELY to remain in the memory of farmers in the Baker and Grande

Ronde valleys of eastern Oregon is the fact that, through following the disinterested technical leading of their electrical utility company, they went into war better prepared for production than would have been the case if the company had not conducted its electrification program.

Immediately after Pearl Harbor, a food committee for the eastern part of the state made a survey and set definite goals for increased production. Hogs were "upped" 25 per cent, chickens 10 per cent, eggs and milk 8 per cent, cows 5 per cent, farm vegetable gardens 38 per cent. Excepting only the gardens, these items all utilize electrical equipment, and the possession of lighted hen houses, lamb and pig brooders, grain cookers, milking machines, and like labor-saving helpers, made it possible for the farm family to add another cow, a hundred more hens, a dozen additional hogs—and still manage with one or more of the men gone to the wars.

With new equipment no longer being manufactured, and even used machinery hard to get, the value of farm installations became so clear that farmers are not likely to forget the soundness of the counsel that, in times of peace, unwittingly led them to prepare for war.

PACIFIC Power and Light in Washington has territory that is more thoroughly industrialized, with factories making agricultural equipment, lumber products, and the like—some two dozen plants, employing around 500 people in normal times.

These factories began to feel the pinch of war during the defense period when priorities cut off their materials.



Information Exchange Bureau

“ACTUAL war brought confusion to the Oregon farms. Increased food production was urged, while farm boys were being drafted, and farm equipment put on priorities when obtainable at all. To help farmers, the company [Oregon Light and Power] set up an information exchange bureau, inviting farmers to list electrical equipment they wished to buy or sell. . . . The response was far greater than had been expected. Much unused equipment came to light and passed into the hands of farmers who could put it to work immediately.”

At that time, there was a lot of sympathy for the small manufacturer, but not much practical help in getting him onto a war footing. Man-power shortage had not yet become acute, though the small manufacturer could see it coming. His principal anxiety then was to get some way of supplying his civilian customers or, failing that, to get into some kind of war subcontracting. The small businessman was being kicked around underfoot. Prime war contractors hadn't time to teach him how to adjust to war production. Sympathy turned to apathy. In more than one quarter, including Washington, it was felt that the small fellow had to be a war casualty.

The power company decided to take hold of this situation in its own territory after Pearl Harbor, and launched a "good neighbor" program, sending its field men out to make the first in-

ventory of facilities, which is the way to go about getting subcontracts. Machine shops were then the best equipped to do war work, and their tools were listed, with capacities, and the different skills found among owners and employees.

SOME of the small proprietors were reconciled to closing down for the war and trekking off to war jobs in the teeming coast cities. When competent advisers appeared and explained the possibilities of getting subcontracts, their spirit changed, and they were interested and coöperative.

When the data were assembled, the company's commercial manager, D. B. Leonard, went to centers like Portland, calling on prime war contractors, showing them what Yakima had to offer.

Such facilities were then being more

WAR SERVICE FOR FARMERS AND SMALL BUSINESSMEN

actively sought and, when they were brought to the prime contractors by a salesman able to answer technical questions and assist in getting small concerns adjusted to war work, the results were encouraging. There was nothing a prime contractor could do about the small business in general, but there was a lot he could do if a particular small concern stood ready to produce a definite gadget.

One of the first subcontracts secured was from a Portland steel foundry, whose engineers had ready the drawings for small quantities of valve parts. If Yakima concerns could make them at stated costs, the steel company would supply materials. These drawings, and other necessary information, were brought to Yakima and submitted to the concerns best fitted to meet the requirements and, in a few weeks, twelve concerns were busy on valve parts, ship bolts, and other ship-building accessories. The town was one of the first in the Pacific Northwest to get going on the small work which had to be done in outlying plants, demonstrating that war work could be found, and demonstrating to prime contractors that vital necessary facilities lay in the back country where work could be done without putting more pressure on housing in the ship-building centers.

IN one of the early months of this program, Yakima shops engaged in subcontracting, mostly small machine and repair shops, worked 2,464 machine hours, with production totaling over \$6,000. All their equipment and their men were kept busy. Some succeeded in installing additional equipment to step up production.

From the viewpoint of a shipyard, in

normal times that much added production might represent the hiring of a dozen more men to run two or three additional machines and, in peace times, that is the way it would be done.

But with the same shipyard in war, harassed by shortages in machinery, mechanics, places for people to live, factory space, and what not, to take on a dozen more mechanics is a different problem. When they are providentially found in small shops outside the congested area, they are a godsend. When they can be multiplied by all the outlying towns with small shops, they speed up the building and launching of ships.

Even a godsend needs a salesman, however, and these subcontracts required many calls upon prime contractors before the different small concerns were put in touch with war plants able to use their facilities.

TYPICAL was the case of an automobile shop equipped chiefly to take care of customers' cars. Such work fell off sharply after Pearl Harbor, and the management spent much time in calling on war agencies hoping to discover subcontracts but without success. The power company then took hold, making many calls, presenting this concern's particular facilities, and eventually got subcontracts. The auto shop cooperated by installing additional machinery, when the nature of the work was learned, and has since employed additional mechanics.

Once started, with repeat orders coming from prime contractors, such small concerns took care of themselves with little help from the power company which stands by ready to assist when necessary. The next stage to be

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passed through will come when some of the small concerns on work connected with military barracks and war housing are compelled to seek new contracts, as those projects are completed. And after that, at some undetermined future date, there will be the problem of unscrambling all the eggs and getting back into peace production.

Those will be days when hard think-

ing will also be necessary, but the experience gained in war adjustments and the technical help given by the power company will make it easier to solve harder problems, and in less time.

And it is not likely that the tidy industrial community of Yakima will forget that its private power company came forward with practical service when it was desperately needed.



Ancient Tax-exempt Corporation Passes

THE city of Paterson, New Jersey, recently took its first step toward liquidating a most unusual corporation. It is a private electric power company organized by Alexander Hamilton in 1791 for the purpose of making the new nation industrially independent of England. The name of the corporation is Society for Useful Manufactures, and its 152-year-old charter grants it freedom from taxation in perpetuity—an immunity which has stood up under repeated court assaults to the irritation of the city, county, and state taxing authorities.

While designed originally as a manufacturing company, the Society in 1894 was made part of a water system and gave up manufacturing. It started to work on a tunnel to bring drinking water right into New York city. But this project was abandoned and the company next turned toward the supply of water to many north Jersey towns. The tunnel plans were taken over by the builders of the Hudson and Manhattan tubes. Subsequently, the Society acquired a hydroelectric plant and a steam electric plant, each capable of turning out 6,000 horsepower. But the Society's properties also include 8 factory buildings which are rented out, and 19 parcels of unimproved real estate, and various water and electric power rights and equipment.

The city plans to keep the waterfalls and power plants, but will sell the factories and real estate so as to return them to the lists of taxable properties. Under the contract the Society waives further tax immunity and agrees to dissolve within one year after the consummation of the sale.



Public Utility Efficiency and Postwar Full Employment

PART II

Operating efficiency of publicly and privately owned utilities. Consideration of taxation and regulatory practices which hinder the private companies from playing their full part in making the free enterprise system succeed in the critical period ahead.

By FERGUS J. McDIARMID

IN a preceding article certain comparisons were drawn by the writer between privately owned and publicly owned utility systems. It was pointed out that no direct and complete analogy may be drawn from the facts between political and economic radicalism and public ownership of utilities in America. Such publicly owned utilities as we have are doubtless here to stay. On the other hand, the insinuations sometimes made to the effect that privately owned companies should be assigned a lower moral status than their publicly owned counterparts are not to be taken seriously.

In the sphere of financing, the type of serial bond financing commonly employed by publicly owned systems strikes the writer as highly desirable

and much to be preferred over the long-term bond issues, often with weak amortization provisions, commonly issued by private utilities. Permanent long-term debt can sometimes become a financial log jamb blocking the flow of new capital into an industry.

It was indicated as the result of a sampling process that publicly owned utilities may enjoy an over-all expense advantage over their privately owned counterparts running as high as 25 per cent of the operating gross of the latter. The major part of this advantage arises from the exempt status of the earnings of publicly owned utilities as far as Federal taxes are concerned. Most of the balance is due to the more favorable rate at which they are able to finance owing to the tax-exempt nature of their

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securities. All but a mere fraction of the over-all advantage which publicly owned utilities enjoy over private systems is due to tax differentials of one kind or another favoring the former. The remaining fraction of advantage is due to the ability of the publicly owned systems to finance entirely through bonds and their custom of paying these bonds off serially, thereby working toward a reduction in their capital charges. Because of these great differences in taxation any direct comparison between rate structures of the two types of systems is not only unfair but relatively meaningless.

IN this article I would like to deal primarily with operating efficiency and matters subsidiary thereto. After all this should be the main determinant as to what type of utility organization should ultimately prevail. Which one can do the most complete job with the least expenditures of capital and labor? These are most important considerations if the utilities are to make their maximum contribution to the future raising of our standard of living.

As measured statistically, the management factor is very important. In the year 1942 expenditures by electric utilities for operating and maintenance expenses totaled 45 per cent of operating revenue. To obtain the sum total of all expenditures coming very directly under the control of management we would have to add the gross cost of new plant. Even capital charges are to some extent under the control of management. A utility with top management, particularly in the financial sphere, can expect to pay a lower rate of interest on its bonded debt, and even raise equity capital on a lower return basis,

than one where the management is subject to question. Investment return paid by electric utilities totaled over 19 per cent of operating gross in 1942. It may be said, therefore, that practically all utility expenditures, both current and capital, with the exception of taxes are to some extent at least under the control of management.

This very great importance of the management factor may help to explain why some utilities with lower than average rate structures are able to earn an above average return on their investments. It may also help to explain why some utilities serving quite sub-standard territory have done an above average job of selling service to their customers, while others operating in wealthy territories have done a mediocre job. It indicates the doubtful wisdom of a policy of regulation which offers minimum incentive to efficient operation by placing a fixed ceiling on the rate of return which it is permitted to earn on the investment.

IN the preceding article three main types of utility organization were described. These are the private company, the municipal system, and the regional authority. What is the nature of the factors making for operating efficiency in these three types of utility organization? In the case of the private company, of course, we have the well-known profit motive, the necessity of earning a reasonable return on the investment if the enterprise is to remain a going concern and if the management is to hold its job. In recent years there have been critics who profess to see something sinister about the workings of the profits system especially when it applies to a public utility enter-

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prise part of whose business may be of a monopolistic nature. However, what this profits system chiefly implies is that the individual operating units of our economic system stand on their own feet, that they take in as much as they pay out, and that they get along without the aid of any pipe lines into the public treasury. As a matter of fact they are among the principal supports of that treasury.

ANOTHER factor making for efficient operation of the private utility company as it exists in America is that its operations usually cover a broad enough area to make for large-scale and balanced operations and the efficiencies that accompany them. The more thickly settled and, therefore, more profitable parts of the territory help to compensate for the thinner parts and, through a widespread system of interconnections, most efficient use is made of the generating capacity. This feature of private company development is proving of inestimable value in the present emergency.

In Britain the urban centers are largely served by municipal electric systems while the less profitable countryside has been left to the private companies.

IN the case of the private enterprise, too, major matters of policy are usually decided by those who are actually engaged in running the business and who have spent their working lives in utility operations. Their course is not dictated to them by outsiders, who, no matter what their qualifications in other fields, may not be experts in utility operations.

Now consider the factors making toward efficient operation of municipally owned utilities. It would be foolish to deny that such factors exist since some of the best run municipal plants have a record for efficient and wise operation comparable to the best run private companies. The professional pride and human desire of managers and technicians to do a good job are important considerations. Particularly in medium and smaller centers are the pressure of democratic control and the interest and pride of the citizens in the operation of the plant factors toward efficient operation. Most city councilors and members of boards of public works no doubt conscientiously try to do a good job.

Operating in the opposite direction are certain political pressures. It has been said of some municipal utilities that a remarkably recurrent cyclical



THERE is frequently a tendency in the case of municipal operation of utilities to devote utility funds to general municipal purposes. To the extent that such a transfer of funds is equivalent to the payment of local taxes this may presumably be justified. However, when it goes beyond this point and acts as a substitute for normal sources of city revenue it may have equal consequences. In the first place it may becloud the real condition of municipal finances and hide from citizens the actual cost of their local government."

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curve might be plotted of the number of employees, this curve reaching a peak just before elections and its lowest point about six months thereafter. Nor can the writer refrain from repeating the remark attributed to the chief engineer of one municipal electric system the morning after an election: "Now, boys, election's over; let's all go back to work."

IN far too many cases under our system of partisan politics the jobs not only of rank and file municipal utility employees but of management personnel as well may hinge on the result of an election. This is apparently true of some of the largest and seemingly best run systems. It is scarcely a situation making for maximum efficiency of operation.

Such political pressures and considerations may help to shape matters of policy over the heads of those who are directly concerned with operating a system and who are best informed as to the issues involved. For example, our municipal electric system in Fort Wayne is from a technical point of view a very well run plant and is fortunate in the type of technical management it has been able to attract. However, it is burdened by an archaic rate structure. The great majority of domestic electric customers, all those who do not have electric ranges, are subject to a rate of $3\frac{1}{2}$ cents for the first 200 kilowatt hours per month and pay 3 cents per unit for all additional electricity. This rate is thought by the politicians to appeal to the small user, but it is certainly not promotional and is unfair to the substantial power user who chooses to cook with the relatively cheap natural gas available. Such a

rate structure does not help fulfill what should normally be the function of a utility which is to sell as much power as possible at the least possible cost consistent with good service. Yet all attempts to change to a rate structure more in keeping with modern practice have been rejected by the political controllers of the system.

ANOTHER curb on the operating efficiency of municipally owned utilities sometimes arises from the size of the political subdivision to which their operations are limited. This is more likely to be true of an electric than of a water or gas utility but applies to some extent to the latter as well. An electric utility in particular requires for most efficient operation a territory large enough to require large generating stations with the efficiency of operation that goes with them. In order to provide a satisfactory load factor, diversity between various classes of customers and reasonable diversification of industry in the territory are usually required. Frequently when operations are confined to a single city or town these conditions are not met. The town itself may be too small to support other than a very small and inefficient generating station or it may be supported by a single industry. In the latter event the local utility may have to make a disproportionate investment to meet a load which has an uncertain future, or the industry will be forced to install power facilities of its own.

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How to Render the Greatest Possible Service

"IT seems . . . that a public utility enterprise can render the greatest public service within its power by selling the maximum possible amount of its service at the least possible cost consistent with ability to stand firmly on its own feet financially. In doing so it brings about the maximum investment in its own facilities, as well as encourages the greatest possible use of appliances. It thereby provides the greatest possible stimulus to the process of investment which is the mainspring of employment in the free enterprise system."

presumably be justified. However, when it goes beyond this point and acts as a substitute for normal sources of city revenue it may have evil consequences. In the first place it may becloud the real condition of municipal finances and hide from citizens the actual cost of their local government.

FOR example, not long ago the officials of a midwestern city acquired the notion that they were underpaid and managed for themselves a salary increase of rather noble proportions. In order to make this operation, or "salary grab" as it was known locally, more palatable to the rank and file of taxpayers, it was arranged to have the increases charged against operations of the municipal electric utility; this in spite of the fact that this utility has a very able operating staff of its own, and at least some of the officials, whose

salaries were being increased, contribute little or nothing to its operations.

This rather widespread tendency to intermingle utility and other municipal funds is a detriment to the efficient operation of either the utility or the municipality. What incentive is there for the local operators to make a good showing if the results of their labors are to be buried in the general finances of the city? This can be particularly true when funds which should be set aside to cover the depreciation of the utility property are used to reduce the real estate tax rate, a circumstance which has been known to happen particularly in election years.

It seems to the writer that a public utility enterprise can render the greatest public service within its power by selling the maximum possible amount of its service at the least possible cost

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consistent with ability to stand firmly on its own feet financially. In doing so it brings about the maximum investment in its own facilities, as well as encourages the greatest possible use of appliances. It thereby provides the greatest possible stimulus to the process of investment which is the mainspring of employment in the free enterprise system. These in turn are steps toward the higher standard of living which is the final goal of all economic policy. When, however, utility funds are freely raided to construct municipal swimming pools or parks, which may be quite worthy purposes in themselves, or to lower the local tax rate, or increase the salaries of public officials, this fundamental objective cannot be approached.

THE regional authority type of utility organization gets away from some of the disadvantages of municipal systems. To begin with, its operations may extend over a broad area so that it has a chance to attain the efficiency of a large system. Also it may hope to avoid some of the drawbacks arising from local political influences such as the tendency to divert utility funds for nonutility purposes and to allow local partisan politics to influence employment policy and operating efficiency.

On the other side of the picture the regional authority seems to lack positive spurs to operating efficiency. In the case of private companies such a spur is provided by the profit motive and in the case of municipal utilities, or at least some of them, by the force of local democratic control. Whether the latter type of spur would be very powerful in the case of Jersey City, for example, is a matter for doubt.

There seems little room for doubt, however, that such regional authorities have attained a record of success in other parts of the world. For example, the London Passenger Transport Board has done a good job of rendering local transportation to some 10,000,000 people in the Greater London area, and the British Central Electricity Board (the Grid) has proved its worth. Ontario's Hydro Electric Power system is well regarded by the vast majority of people whom it serves. Each of these enterprises has consistently operated on a self-supporting basis.

THESE instances, however, can only be judged against the background of political, social, and economic conditions under which they operate. Britain is a homogeneous, tightly knit country, small in area with a national central government of dominant power and prestige. London has a relative importance to Britain such as no city possesses here. The British civil service, whatever its shortcomings, has a long record of integrity and devotion to duty. Obviously, certain things might well be attempted there under the auspices of the national government which had best be avoided here. Also we will do well to recall that the Grid established an interconnected power system there such as had already been established here under private auspices. It is worth noting that when a regional authority was recently proposed to take over and coördinate power facilities in the Greater London area, it involved the absorption of over 75 separate systems. No problem remotely resembling this now exists in any American metropolis.

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Ontario's Hydro has many of the characteristics of a local organization. It is owned and controlled entirely by the 3½ million people of that province, and by the municipalities therein. The distribution systems serving these municipalities are separately financed by municipal credit and have a large measure of local control. The rest of the system was financed by provincial credit. The national government of Canada has no connection at all with Hydro, either financially or otherwise.

ALSO Hydro came into existence many years ago when investment capital was a rather scarce commodity in Canada. In order to extend the benefits of electric service as fully and widely as possible, use of public credit was probably justified. Likewise, a large part of Canada's railway mileage was financed by government guaranties, both Federal and provincial. Incidentally, much of this mileage was wastefully and perhaps unnecessarily built. No comparable condition of capital shortage exists today in this country. Far from it; in recent peace-time years our most pressing economic problem has been to obtain investment outlets for savings.

In this country such regional public utility authorities as have already come

into existence have tended to be federally controlled, and it seems a reasonable assumption that they will partake increasingly of other divisions of the Federal government. This may be forestalled for a time by the existence of a strong character at the head of the organization, but such characters unfortunately are mortal.

We are becoming increasingly acquainted with certain features of our central government bureaucracy, only a couple of which need to be mentioned here. First there is the very great difficulty which seems to exist in eliminating incompetents from the service. For some reason they cannot be fired outright for much short of treason. The higher up in the hierarchy they work their way the more this is said to be the case. When a government official becomes too obstructive in a given position, apparently the best that can be done is to move him to another place of equal pay and rank where it is hoped his characteristics will prove less harmful.

THE other feature I would mention is the well-known tendency of a bureaucracy to increase its numbers regardless of the usefulness of the function it performs. This is sometimes ascribed to the circumstance that the position and pay of a government offi-



Q "ONTARIO'S *Hydro* has many of the characteristics of a local organization. It is owned and controlled entirely by the 3½ million people of that province, and by the municipalities therein. The distribution systems serving these municipalities are separately financed by municipal credit and have a large measure of local control. The rest of the system was financed by provincial credit. The national government of Canada has no connection at all with Hydro either financially or otherwise."

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cial depend on the number of employees under him, and so he is ambitious to increase their number. Needless to say the introduction of such features into public utility management, where the management factor is of primary importance, would be fatal to efficiency of operation.

During the current war emergency, the people of this country, rightly or wrongly, have become pretty fed up with the working of the Federal bureaucracy. It is safe to say there is at present no popular wish to have this bureaucracy extend its sway over areas of our economy which are now receiving reasonably competent management from other sources. The swing of current opinion is entirely the other way.

This situation might change. It might be changed, for example, by widespread unemployment in some postwar period which would reduce the prestige of the private enterprise system to a low ebb such as was reached in the early 30's. Such a situation would probably cause a political swing to the left along with a popular demand for more active participation by the central government in the management of our economy. It must be the paramount aim of all believers in our present type of economy to prevent such a situation arising.

O THERWISE is there a case for the Federal government in the utility business? It is pretty generally recognized, I believe, that in order to iron out the low points in business activity and employment after the war, some form of public works program may have to be provided. For the sake of our general standard of living, it will be better if these works are of a pro-

ductive and utilitarian nature and they may well include joint purpose projects for power, flood control, and navigation. Because such works can hardly be entirely self-supporting in a strictly financial sense they could not very well be constructed within the framework of the private enterprise system. Also some of them, Grand Coulee for example, may be simply too large for existing units of private enterprise to undertake. Moreover in the case of such projects, once they are completed, a large amount of management is not involved. If we are going to have idle men it is obviously better that they be employed on projects of this sort than in raking leaves.

However, it is necessary to make a few important qualifications. These Federal public works must be carried out in such a way as not to constitute a threat to existing sections of private enterprise, if their purpose of adding to the sum total of employment is to be served. For years the first mortgage bonds of soundly financed private utilities operating in the TVA area sold at heavy discounts because of the threatening manner in which TVA was set up in business. During this period the utilities in that area were debarred from raising new capital by the threat to the capital already invested in them. To a lesser extent this was true of the entire private utility industry. After all it does nothing to stimulate total employment and investment if one dollar is put to work in a public works project in such a way as to frighten three dollars out of going to work in private enterprise.

A LSO the administration of such works should be a localized func-



The Working of the Federal Bureaucracy

"DURING the current war emergency, the people of this country, rightly or wrongly, have become pretty fed up with the working of the Federal bureaucracy. It is safe to say there is at present no popular wish to have this bureaucracy extend its sway over areas of our economy which are now receiving reasonably competent management from other sources. The swing of current opinion is entirely the other way."

tion. It should not involve the right to determine the type of utility organization which shall purchase power from the Federal development. Specifically we have in mind the case of the Bonneville Power Administrator appointed from Washington, attempting to force the Portland General Electric Company to give an option to that administration for the purchase of its property, as a condition of a new power purchase contract. This sort of thing seems at odds with democratic processes of government as heretofore practiced in this country. Who should operate utility properties should be a matter for the people locally concerned to decide, without interference and pressure from a bureaucrat appointed from Washington.

And now we come to the last and probably the most important phase of the subject under discussion. What

type of utility organization is likely to be most useful in creating reasonably full employment in the postwar period? We have stated it before but cannot stress too strongly that the obvious way for a utility, or in fact any other business organization, to work toward this goal is to sell as large a volume of its service or product as possible. Not only is the process of investment in the utility's own plant stimulated thereby but its customers' investment in appliances is pushed to higher levels. This process of investment provides the mainspring of employment. Unless it can be maintained continuously at a fairly high level in the postwar period the whole future of the free enterprise system will be in doubt. Therefore, other things being equal an electric utility which is able to sell its domestic customers 2,000 kilowatt hours a year on the average is doing much more to

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make that system work than one which sells only one-third as much.

ON the basis of the available factual data it is not possible to draw any clear-cut conclusions as to which type of organization deserves preference. One can, of course, point to the record of the municipal electric system in Winnipeg which has been selling over 5,000 kilowatt hours a year to its domestic customers on the average. Seventy-one per cent of these customers have ranges and 56 per cent have water heaters. This record was achieved with the aid of cheap hydro-electric power and in the absence of natural gas competition. Certain municipal electric systems in this country, such as those of Tacoma, Seattle, and the Tennessee cities, have also achieved notable records in load building while others have made a mediocre showing in relation to their opportunities.

Among private utilities there is a wider variation in electric usage than the underlying facts seem to justify. For example, it is difficult to see why such usage should not have been larger in certain New England and Middle Atlantic areas where wealth is above average and where cheap natural gas competition does not exist. Perhaps the answer may be found in a complacent attitude on the part of managements and reactionary rate schedules. On the other hand, some utilities

operating in areas of distinctly sub-standard wealth have done a much better than average job of selling their product. Certain private systems operating in the Northwest have achieved load-building records almost equaling the best of municipal systems.

Two important factors, already alluded to, tend to curb the private utilities in their load-building efforts as compared to the publicly owned systems. Certainly the use of these utilities as a major tax-collecting agency is a deterrent to their offering the maximum amount of service at the least possible cost. In fact the entire system of corporate taxation in this country, which taxes corporate earnings twice, once when they are earned by the corporation and again when they are received by the individual, acts as a brake on the essential process of capital investment.

Secondly, the system of regulation now commonly employed allowing a fixed rate of return on invested capital holds forth no reward for good management and maximum stimulation of the investment process. It may almost be said to act as a drawback to that process. These two items of taxation and regulatory policy require revision to enable the private utilities to play their full part in making the free enterprise system succeed in the critical period ahead.

Q "A VARIETY of ration stamps and tokens of the kind to be issued in connection with ration book No. 4 can have no place in a free economy. They are and will remain the tools of regimentation, of statism, and of other controls which cannot be reconciled with the freedoms we are pledged to restore and to perpetuate."

—EDITORIAL STATEMENT
Cleveland Plain Dealer.



Wire and Wireless Communication

WITH the announced intention of conducting the investigation in such a manner that it "will command the respect of the public," Representative Lea, Democrat of California, on October 4th took over the task of continuing the House inquiry into the affairs of the Federal Communications Commission.

Speaker Rayburn appointed the Californian to the post of chairman of the investigating committee to replace Representative Cox, Democrat of Georgia, who resigned last month following charges placed against him by members of the FCC. In naming Mr. Lea to continue the inquiry, the Speaker noted his twenty-seven years of service in the chamber, and referred to him as a "man of splendid courage and great ability" and said he possessed "judicial temperament and fairness."

Mr. Lea, who also is chairman of the House Interstate and Foreign Commerce Committee, is quiet spoken and considered by his colleagues as one of the hardest working committee chairmen in the House.

Whether the investigating committee will keep its counsel, Eugene L. Garey, whose conduct of the hearings has been criticized, was still undecided when Representative Lea took over. In fact, he reported, he had not followed the details of the investigation so far conducted, and he would have to bring himself up to date by conferring with the other committeemen and by reading up on the testimony before making any decisions.

Mr. Lea pointed out that as the commerce committee has jurisdiction over legislation affecting the FCC, he hoped that the inquiry into the agency would provide constructive information to aid the work of that group. The House resolution providing for the investigation, the new chairman said, made it the duty of the inquiry to "go into the question of the organization of the commission, its personnel, and its activities, in accordance with law."

IT was understood that Representative Lea, in his dual capacity as chairman of the special House investigating committee and chairman of the House Interstate and Foreign Commerce Committee, has predicted that out of the present complicated situation involving the inquiry into the FCC's jurisdiction, it will be necessary to write new legislation to take the place of the Communications Act of 1934. Chairman Lea last year presided over hearings on the Saunders bill to revamp the Communications Act, which extended from mid-April to July, 1942. As a result of these hearings, he has considerable background on the problems surrounding the operation of the FCC.

Chairman Lea said he felt some months ago that new legislation was needed, but that his committee had been asked to drop it until after the war. He recalled that the request to shelve legislation for the duration was approved by the Federal Communications Bar Association,

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which originally had urged another law.

"I think when we get through, developments of this investigation may influence legislation," Mr. Lea declared. "We have a subcommittee set up to look after such legislation, but I don't believe the minority members have been appointed."

Early this year Chairman Lea ordered an 11-man subcommittee on communications appointed to study proposed legislation governing radio and to make recommendations to the committee as a whole. The following Democrats were named by Mr. Lea: Alfred L. Bulwinkle, North Carolina, subcommittee chairman; Virgil Chapman, Kentucky; Martin J. Kennedy, New York; Thomas D'Alessandro, Jr., Maryland; George G. Sadowski, Michigan; and Richard F. Harless, Arizona.

Representative Charles A. Wolverton, Republican of New Jersey, ranking minority member of the committee, has not named the Republican members. Chairman Lea said he would press for a full 11-man subcommittee so that a study of proposed legislation could get under way shortly.

IT was learned that Chief Counsel Garey and his entire staff had prepared to resign, should there be pressure to tone down the investigation. They would continue to function, however, until the new chairman makes a decision.

In the meantime, another "smear" campaign, which Mr. Garey said he felt was inspired, was spread by the New York newspaper *PM*, Marshall Field's publication. In the October 6th issue there appeared a story by Elizabeth Donahue of *PM*'s Washington bureau charging that Chief Counsel Garey had "used the inquiry to needle Jews." *The Washington Post*, which has continuously attacked former Chairman Cox as head of the investigation, also editorially demanded the removal of Counsel Garey.

Over on the Senate side, progress was expected to be made on the Wheeler-White bill (S 814) to revise the Communications Act by spelling out its jurisdictional authority over various policy

issues and dividing it into two autonomous divisions of three members each—one for radio broadcasting and another for so-called common carriers of intelligence such as telephone and telegraph, point-to-point radio, etc.

The Wheeler-White bill, which is similar to the Saunders bill in the last session of Congress, has been delayed because of the preoccupation of one of its co-authors, Senator Wheeler of Montana, with the father draft legislation recently disposed of by the upper chamber. Senator Wheeler is now ready to go ahead with continuous hearings on his Communications Act bill along with his Republican colleague, Senator White of Maine. Hearings were expected to get under way around November 1st.

The daily press of the nation generally—much of which had been editorially critical of Representative Cox's leadership of the House investigation into the FCC—reflected the obvious temper of the House of Representatives to have the investigation pressed further and thoroughly. It is generally hoped by the nation's editors commenting upon the situation that with the removal of the personality dispute resulting from Representative Cox's leadership, the investigation would now be permitted to go on in a way which would bear fruitful results in terms of corrective legislation.

* * * *

Now that the actual merger of the Western Union Telegraph Company and Postal Telegraph, Inc., has been formally consummated, talk has been revived of the consolidated Western Union organization taking over the telegraph plant facilities of the American Telephone and Telegraph Company. Officials of Western Union and AT&T have had some purely informal discussions on the situation in recent weeks and AT&T admitted recently that it had started a complete inventory of its telegraph facilities.

However, before anything concrete can be done in the matter of merging AT&T's telegraph plant into Western Union to form a single nation-wide telegraph system, the Western Union-Postal

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Telegraph combination will have to be set up on a smoothly operating basis. On September 28th, the Federal Communications Commission approved the Western Union-Postal Telegraph merger as being in the general public interest, and the way for unification was cleared by the New York State Public Service Commission on October 7th, which passed on certain amendments to Western Union's corporate charter in connection with new securities. Its action was not an approval of the merger.

AT&T's telegraph facilities gross about \$40,000,000 a year, but the company never has indicated what price it would be willing to accept for its telegraph business. There is also the question how Western Union, on top of the Postal consolidation, could finance the acquisition of AT&T's telegraph facilities.

* * * *

At the National Archives in Washington preparations are under way for one of the biggest jobs ever attempted in radio or motion pictures. It is to compile a history of this war which people a decade or a century hence will be able to hear as well as see. The radio angle is to include recordings which the government is now collecting of such historic broadcasts as the never-to-be-forgotten flash from Pearl Harbor and President Roosevelt's memorable address to Congress the next day.

Before the gigantic task, which may take years to complete, is finished, broadcasts of actual battles may be included. This would come about through the activities of the Army Signal Corps, the Navy, and other branches of the services which have men with sound and broadcasting equipment on the fighting fronts whose recordings, it is hoped, will eventually find their way to the National Archives.

A forecast of what broadcasts from the scene of battle may be like was heard over the air in this country when a BBC announcer thrust a microphone outside a window during a London air raid to let us hear exactly how it sounded. And

there was the eyewitness account of the announcer at Montevideo who, amazed at seeing the crew of the *Graf Spee* sinking their own ship, and not knowing he was on the air at the time, was heard all over the United States to shout: "For God's sake, give me a circuit—the Germans are scuttling her!"

There will no doubt be thrillers like this galore in Uncle Sam's collection of historic broadcasts. How much material will be acquired may be gauged from the amount which has already been collected about Pearl Harbor.

Though anxious to comply with the government's request, but not understanding how thoroughly the thing was to be done, the National Broadcasting Company at first sent only some of the more exciting excerpts. Captain John G. Bradley, chief of the sound recording division, explained that Archives wanted the whole thing, commercials and all, so that the tremendous excitement that existed could be reflected. As a result the National Archives has a complete and uninterrupted recording not only of the first astounding flash from Pearl Harbor but the entire broadcast that historic Sunday afternoon and on through the night during the first twenty-four hours of the war.

Captain Bradley spoke of the fine co-operation he was receiving from the networks, hindered only by a shortage of material with which to make recordings.

Although only about ten years old, National Archives has already collected recordings of broadcasts made by every President since radio came into its own. The first, of course, was President Harding. All of President Roosevelt's inauguration broadcasts and fireside chats have been recorded; likewise, the voices of numerous national and international celebrities, including the man who will go down as one of the greatest broadcasters of all time—Winston Churchill.

* * * *

A TRIBUTE to wire services, newspapers, and radio stations for their adherence to voluntary censorship was paid recently by Byron Price, direc-

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tor of the Office of Censorship. In a broadcast interview with Representative Randolph, Democrat of West Virginia, the former executive news editor of the Associated Press said voluntary censorship in America "is effective only because of the diligence and high sense of responsibility shown by the thousands of editors, reporters, columnists, copy readers, broadcasters, and commentators—the people who make us the best informed people in the world."

Mr. Price added that "without their intelligent and loyal effort voluntary censorship would be a farce, and we would be faced with the alternative of compulsory censorship." He said "great responsibility" rests also with members of Congress who exert a voluntary personal censorship on divulging information.

Through this voluntary compliance with the rules established for the press and radio, he said, the President is enabled "to move about freely without the enemy knowing his whereabouts although he may be seen by thousands of citizens on these travels," and "thousands of soldiers march up the gangplanks of transports and reach their destinations" without the enemy's knowledge.

Mr. Randolph, congratulating Mr. Price, his organization, and the press and radio, declared that "if this splendid record is continued until victory is ours, the nation can look on voluntary censorship as a great tribute to the intelligent working of a democracy."

* * * *

A STATEMENT by Chairman James L. Fly of the Federal Communications Commission that perhaps "all Americans are to enjoy free speech except radio commentators," drew a quick reply recently from Paul W. Kesten, executive vice president of the Columbia Broadcasting System. CBS has banned expression of personal views and opinions by its news analysts.

During an address at a meeting of the Radio Executives Club, Mr. Fly discussed the network ban, and declared that "those intrusted with the facilities of radio cannot impair the freedom to

listen by restrictions imposed at the transmitter end."

Mr. Kesten, in accepting the club's invitation to CBS to reply to Mr. Fly at a future meeting, declared:

CBS is just as vigorous a champion of free speech as Mr. Fly. We believe, however, that freedom of speech does not mean freedom for a privileged few. . . .

The real essence of our news policies is to keep our news broadcasting and news analysis as objective as humanly possible, rather than let it degenerate into partisan propaganda. There is plenty of space on the air for special pleading; we merely say that news broadcasts are not the place for it.

Mr. Fly said earlier that the radio industry, under present policies, does not "allow healthy growth and expansion in the field of free speech," and asserted: "This great, young, and progressive industry must not be frozen at any status quo."

Mr. Fly discussed restrictions on types of programs, on groups who may be heard, and on commentators. He expressed belief a prime barrier to free speech on the air is a ban imposed by many stations and networks "on sale of time for discussion of controversial issues," declaring this to be "wholly out of keeping with American traditions of free speech. . ."

Asserting there recently had been discussions about the policy of a network in regulating the expression of views by its news analysts, Mr. Fly said that while personal opinions should not be given in the guise of news, "I can hardly see the reason why they should not be aired" if labeled as opinions.

* * * *

A PPEALING a Dauphin County Court decision, the Bell Telephone Company of Pennsylvania last month asked the state supreme court to deny the commonwealth the right to collect gross receipts tax on revenues received by the company for supplemental services and equipment. Argument was heard by the court at its fall session in Pittsburgh. The Dauphin County Court upheld the commonwealth's claim that the 20-mill excise tax is applicable to such revenues.

Financial News and Comment

By OWEN ELY



The NARUC Depreciation Report

THE complete report of the committee on depreciation of the National Association of Railroad and Utilities Commissioners ("NARUC") has now been published (277 pages). (A brief summary of the committee's conclusions appeared in the September 30th issue, pages 437-8.) The report is of special interest to utility accountants and financial officers, and because of its scholarly character will doubtless prove an important factor in depreciation policy and accounting practice for years to come.

It is also particularly timely. After "stalling" the efforts of the Interstate Commerce Commission to initiate depreciation accounting for way and structures (depreciation had been in effect for many years on equipment), the railroads finally bowed to the inevitable and began accruing on way and structures last January.

The electric utilities increased their depreciation charges for some years but

rates now appear to be stabilized. The proportion of gross revenues taken by depreciation and maintenance is shown in table in preceding column.

Despite SEC insistence that average depreciation charges have been too low, because many companies were charging higher amounts in their income tax returns, it appears from the growth of balance sheet reserves that the present allowance for depreciation and maintenance is somewhat overgenerous. Following are the average ratios of reserve to plant account (including gas plant, etc.) in selected years:

1922	8.1%
1927	6.6
1932	8.0
1937	9.7
1941	14.3

WHILE it is possible that the 1941 reserve ratio is not excessive as a measure of plant condition, nevertheless the increase in the ratio in the four years 1937-41 was too fast, resulting in a probable understatement of current earnings, just as earnings in the 1920's were understated. The 15 per cent rate for maintenance and depreciation specified in many bond indentures seems adequate; 10 per cent for depreciation plus 5 per cent for maintenance would seem a good rule-of-thumb practice.

It is impossible to summarize the NARUC report completely in this department, but some of the salient points may be mentioned. It emphasizes that depreciation should be based on original cost of construction—not fair value or replacement cost. "In this respect the doctrine followed in United Railways & Electric Company *v.* West (280 US 234, 253, 1930) misconstrues the economic

	<i>Deprec.</i>	<i>Maint.</i>	<i>Total</i>
1942	11.3%		
1941	11.3	5.3%	16.6%
1940	11.4	5.4	16.8
1939	11.6	5.6	17.2
1938	11.2	5.9	17.1
1937	10.6	6.1	16.7
1936	10.3	5.7	16.0
1935	10.3	5.3	15.6
1934	10.4	5.1	15.5
1933	10.1	4.8	14.9
1932	9.4	..	..
1931	8.6	..	..
1930	8.3	..	..
1929	8.4	..	..
1928	8.6	..	..
1927	8.3	..	..
1926	8.6	..	..

PUBLIC UTILITIES FORTNIGHTLY

nature of depreciation and would be administratively impossible of reasonably accurate application." Without regard to the merits of original cost as a rate base, the committee seems on safe ground; while a reserve will obviously prove inadequate if replacements must be made at higher cost levels, this should be taken care of out of earned surplus so far as possible. Otherwise it would be necessary to change the depreciation formula every year or so, to adjust for variations in costs, and retroactive adjustments would also be necessary. In this connection we reproduce a chart prepared by the American Appraisal Company, which indicates that buildings costs are now $2\frac{1}{2}$ times as high as in 1913 and roughly 25 per cent above the average level of 1918-41, when the bulk of the present utility plant was probably built.

The report contains on pages 124-5 a brief sketch of utility income tax procedure. This section of the study might well have been expanded beyond a few paragraphs. The chapter on "depreciation and the investor" seems largely historical, with too little attention paid to present actualities. Too great stress is laid on the effects of assumed inadequacy of depreciation on income and security values during the 1920's.

An investigation of historical changes in the depreciation practice of utilities would be a real contribution to the subject. Instead the report merely describes a few cases (without naming the companies) where investors were misled by inadequate depreciation, and gives a theoretical discussion of the effect of inadequate depreciation on capital structure. A comparison of Bell Telephone system reserves with those of the electric utility industry is of interest, although not carried to a logical conclusion—it might well have been pointed out that the Bell reserves have grown very fast and apparently reflect substantial overaccruals.

THE report stresses the heavy losses experienced by investors in street railway, steam railroad, and gas utility securities in the past due to radical

changes in these industries. It points out that investors' losses would have been reduced had depreciation reserves been more ample. While this is true, it would have been interesting to have had an analysis of the factor of obsolescence as compared with depreciation. The report does not mention the fact that many companies have pursued sound policies with respect to capitalization, property maintenance, and dividends, accumulating an ample surplus (in lieu of adequate depreciation), and have thus been able to weather basic changes in their industries.

The report contains some meaty paragraphs on bond indenture requirements as to depreciation, and the attitude of regulatory commissions. But it barely mentions (page 142) a most vital fact to utility stockholders; namely, that past overgenerous accruals of taxes in the reports to the Treasury Department have had a devastating effect on current utility income, because the invested capital base has been written down so much that the utilities now have to pay heavy excess profits taxes. A statistical analysis and discussion of this topic would have been of greatest interest to utility officials and investors, as well as to congressional framers of our tax laws.

The report states that "there should be adequate disclosure to security holders of the effect of accelerated amortization on present and future taxes."

It might well have suggested that utilities present in their annual reports more complete tax data, including a summary of depreciation as reported to the Treasury, the amount of the depreciated plant account in the Treasury statement, the amount of tax savings due to consolidated system returns, etc. Federal taxes have suddenly become the most important subject to utility stockholders.

Annual reports tend to follow traditional lines with respect to the information furnished. There is a crying need for more complete data on all phases of the tax problem.

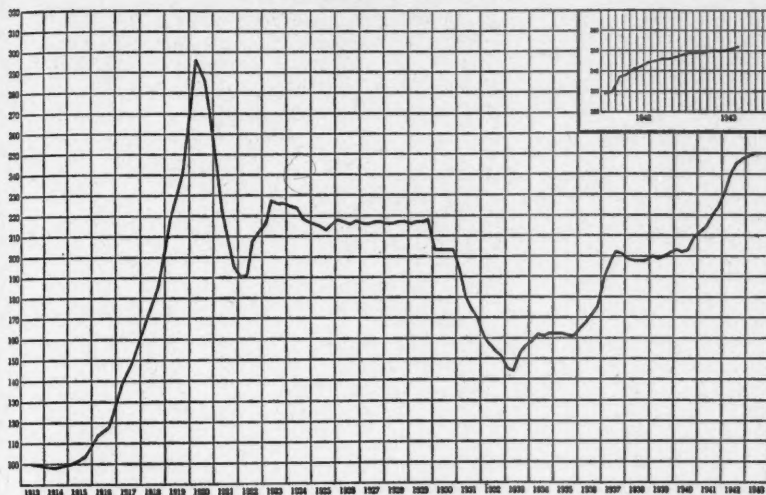
Summarizing, the report contains a

FINANCIAL NEWS AND COMMENT

The American Appraisal Company Construction Cost Indexes and Graph

Cost Indexes of Average Construction and Representative Items of Material and Labor

The National Average Construction Index is based on four types of buildings—Frame, Brick, Concrete, and Steel—in thirty representative cities.



	Prewar Normal 1926	Depression Low 1933	1942	June 1943	July 1943	Aug. 1943
NATIONAL AVERAGE	217	150	241	250	251	252
Twenty-two Typical Cities						
Boston	224	163	248	252	253	254
New York	234	167	248	252	254	255
Buffalo	219	150	247	255	256	257
Baltimore	224	158	248	256	256	256
Philadelphia	225	156	247	252	252	254
Pittsburgh	236	161	249	258	258	260
Cincinnati	217	151	242	249	249	250
Cleveland	233	151	245	248	248	250
Chicago	219	156	235	242	243	245
Indianapolis	219	150	247	256	256	257
Detroit	224	146	252	257	258	259
Milwaukee	218	141	254	262	263	263
Minneapolis	197	146	235	240	241	241
Kansas City	220	149	239	247	247	249
St. Louis	230	156	238	243	244	246
Atlanta	211	142	240	236	237	239
Dallas	204	139	209	223	228	225
New Orleans	217	141	234	242	242	245
Denver	204	141	226	233	233	233
Seattle	199	136	244	253	253	255
San Francisco	188	138	225	233	233	233
Los Angeles	195	124	213	237	237	237

These indexes are based on 100% for 1913, and average cost under normal conditions with no allowance for strikes or overtime premiums for special conditions. The indexes reflect the cost trend in each city but do not indicate the relative trend between cities.

From Bulletin of the American Appraisal Company



vast amount of useful information for those interested in the theory of depreciation.

A statistical analysis of actual depreciation results, for railroads and utilities, would have added to its practical value.

PUBLIC UTILITIES FORTNIGHTLY

Columbia Gas Resumes Common Dividends

COLUMBIA GAS & ELECTRIC on October 7th resumed dividend payments on its common stock, with a declaration of 10 cents per share payable November 15th to holders of record October 20th.

The last previous common dividend was 10 cents paid February 15, 1941. Only a few important electric holding companies are currently paying common dividends.

Gross earnings for the Columbia system for the twelve months ended August 31, 1943, were \$132,742,374, an increase over the previous twelve months of 9 per cent. The consolidated earnings per share of common stock, adjusted to give effect to reallocation of Federal taxes to periods to which they apply, were 38 cents, compared with 16 cents per share for the previous period.

A saving in interest charges at the rate of \$1,381,445 per annum will result from the retirement of \$27,628,900 debenture bonds in 1942 and to date in 1943, but less than one-half of such saving has accrued during the twelve months' period ending August 31st.

The Illinois Iowa Power Claims

THERE are several "triangular" cases before SEC, involving the conflicting claims of three affiliated companies. One of these is the United Gas - Electric Bond and Share-Electric Power & Light Case, which remains dormant at the moment. Another is the Illinois Iowa Power—North American Light & Power—North American company controversy, which seems to be entering an active phase. Sometime ago the SEC ordered North American Light & Power Company to be liquidated, along with its inactive subsidiary, Illinois Traction Company. The latter company has presented an amended plan of liquidation on which SEC hearings were held in August. There should be no great difficulty in winding up this company.

The dissolution of North American

Light & Power is a more involved problem. The SEC has granted an extension of time from July 22nd to December 30th to comply with the "death sentence" order requiring liquidation, and has pointed out that this would be a final extension.

Dissolution would not be a difficult operation (except perhaps for possible claims by common stockholders for a small share in the assets) were it not for the question of subordinating or reducing North American's interest in the company, in relation to the publicly held securities. All publicly owned bonds have been retired, leaving only the \$5,623,500 owned by North American Company. That company also owns a substantial amount of both the preferred and common stocks.

ILLINOIS IOWA POWER COMPANY has brought claim against North American Light & Power for \$20,000,000 or more, on the ground principally of mismanagement. If this claim should be granted together with a reduction in North American's pro rata share of assets, it would, of course, substantially deplete North American's interest. The matter is further complicated by the efforts of counsel for a group of preferred stockholders (of Light & Power) to intervene in the case. Moreover, counsel for North American Company has held that the SEC has no judicial power to try and adjudicate a damage suit (such as the Illinois Iowa Power claim) and that if the Holding Company Act gave the commission such authority it was a violation of the Constitution.

Trouble in Canada

PREMIER Godbout of the Province of Quebec on October 8th predicted at a press conference the expropriation of Montreal Light, Heat & Power Consolidated. A bill is to be presented at the next session of the legislature to nationalize the company, in order to provide cheaper power. About the same time the

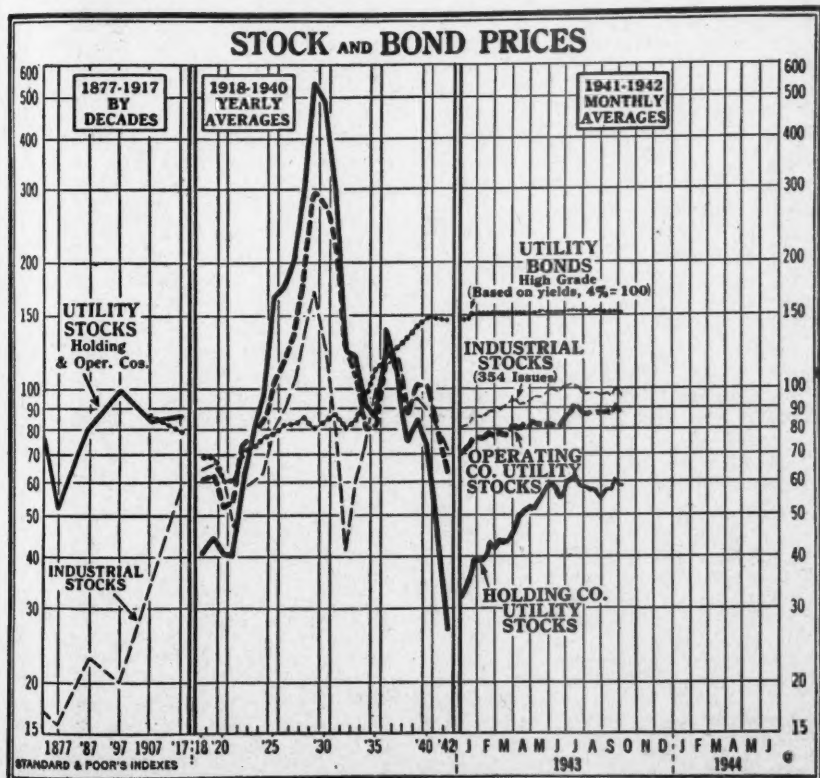
FINANCIAL NEWS AND COMMENT

Quebec Public Service Commission proposed a deep cut in plant value and in rates, hearings on which will be held November 12th. The commission's ruling, if upheld, would reduce the capital employed in the electrical division of the business from \$70,000,000 (as of December 31, 1939) to \$41,000,000 as the "real value upon which a return might be allowed for rate-making purposes." Press reports indicate that the proposed rate cut would reduce the annual revenue from electricity nearly 28 per cent—from \$18,000,000 to \$13,000,000.

These revenue figures appear to be somewhat obsolete. Last year's electric revenues for Montreal and Beauharnois, its subsidiary, totaled about \$28,000,000, and, omitting Beauharnois, were in the neighborhood of \$21,000,000. The ratio

of consolidated net earnings to consolidated net plant account and current assets was only 5.4 per cent. This includes gas operations and Beauharnois. Because of lack of complete data regarding the equity interest in Beauharnois, it is difficult to obtain correct figures for the parent company only; but in 1942 Beauharnois' ratio of gross income to net fixed assets was 8.5 per cent, so that the parent company earnings ratio would apparently run well below 5.4 per cent. Elimination of the gas business, which amounts to less than one-fifth of total revenues, would probably raise the figure, however.

According to the press story, only about 61 per cent of plant is electrical so that the gas business must yield very low returns.



PUBLIC UTILITIES FORTNIGHTLY

INTERIM EARNINGS REPORTS

	<i>End of Period</i>	<i>12-month Period</i>			<i>3-month Period</i>		
		<i>Last</i>	<i>Prev.</i>	<i>Inc. %</i>	<i>Last</i>	<i>Prev.</i>	<i>Inc. %</i>
<i>Electric-gas Holding Companies</i>							
American Gas & Elec. Consol.	July	\$2.26	\$2.32	D2	.53	.38	40
Amer. Power & Lt. (pfd.) Consol.	July	9.19	3.98	130	2.16	.51	325
Parent Co.	Dec.	3.18	3.98	D20	..	..	..
American Water Works Consol.	June	.75	1.10	D32	..	..	..
Parent Co.	June	.17	.30	D43	..	..	..
Columbia G. & E. (1st pfd.) Consol. ...	June	12.99	5.62	132	1.86	2.57	D27
Com. & Southern (pfd.) Consol.	Aug.	9.47	7.13	33	1.87	1.40	30
Elec. Bond & Sh. (pfd.) Parent Co. ...	June	4.24	5.12	D17	1.08	1.09	D1
Elec. Pr. & Lt. (1st pfd.) Consol.	July	12.14	10.50	15	..	..	..
Parent Co.	July	2.06	1.37	51	..	..	..
Eng. Pub. Service (common) Consol.	July	1.45	1.04	41	..	..	..
Parent Co.	June	.19	.36	D47	..	..	..
Federal Lt. & Trac. Consol.	June	1.79	1.48	21	.41	.31	32
L. I. Lighting (pfd.) Parent Co.	June	4.87	3.50	39	..	..	..
Middle West Corp. Consol.	June	.59(a)	.48(a)	23	.22	.20	10
Nat'l. Pr. & Light Consol.	July	1.00	.61	63	.21	.09	133
Parent Co.	June	.04	.10	D60	..	..	..
Niagara Hudson Pr. Consol.	June	.33	.40	D18	..	..	..
Parent Co.	Dec.	.12	.03	300	..	..	..
North Amer. Co. Consol.	June	1.72	1.88	D9	.40	.40	..
Parent Co.	June	1.18	1.57	D25	..	..	..
Nor. States Pwr. (Del.) (pfd.) Consol.	June	6.42	7.10	D9	..	..	..
Ogden Corp. Parent Co.	June	.09(a)	.03(a)	200	..	..	..
Pub. Serv. Corp. of N. J. Consol.	June	1.25	1.23	1	..	..	..
Std. Gas & Elec. (pr. pfd.) Consol.	June	12.92	9.00	44	2.61	2.03	28
Parent Co.	June	2.83	2.13	32	.63	.49	29
United Gas Improvement Parent Co. ...	June	.54	.57	D5	..	..	..
Consol.	June	.57	.60	D5	.36	.31	16
United Lt. & Pr. (pfd.) Consol.	June	10.41(b)	6.46(b)	61	..	..	..
<i>Electric-gas Operating Companies</i>							
Boston Edison	June	2.26	2.04	10	.55	.40	37
Commonwealth Edison Consol.	June	1.83	1.56	17	.87	.78	11
Conn. Lt. & Power	Aug.	2.59	2.63	D3	..	..	..
Cons. Edison N. Y. Consol.	June	1.75	1.70	3	.27	.17	58
Parent Co.	June	1.92	1.71	12	.45	.36	25
Cons. Gas of Balto. Consol.	June	4.02	3.58	12	.87	.91	D4
Detroit Edison Consol.	Aug.	1.34	1.47	D9	..	..	..
Houston Lighting & Power	Aug.	5.83	4.28	36	..	..	..
Indianapolis P. & L. Consol.	June	2.17	2.03	7	.36	.35	3
Pacific Gas & Elec. Consol.	June	2.26	2.08	9	..	..	..
Public Service of Indiana	Aug.	1.96	1.85	6	..	..	..
San Diego Gas & Elec.	July	.95	.97	D2	..	..	..
Southern California Edison	June	1.46	2.02	D27	.30	.34	D12
<i>Gas Companies</i>							
Amer. Lt. & Traction Consol.	June	1.83	1.81	1	..	..	..
Brooklyn Union Gas	June	1.92	1.88	2	..	..	..
El Paso Natural Gas Consol.	July	3.51	3.15	11	..	..	..
Lone Star Gas Consol.	June	.70	1.03	D33	..	..	..
Oklahoma Natural Gas	July	2.87	3.75	D25	..	..	..
Pacific Lighting Consol.	June	3.12	3.40	D8	..	..	..
Peoples Gas Light & Coke Consol.	June	6.46	5.74	12	1.41	1.40	1
Southern Natural Gas Consol.	June	1.85	1.83	1	..	..	..
United Gas Corp. (1st pfd.) Consol. ...	July	18.48	17.21	7	..	..	..
Parent Co.	July	16.61	13.74	21	..	..	..
<i>Telephone and Telegraph Companies</i>							
American Tel. & Tel. Consol.	May	9.15	9.54	D4	2.35	2.18	8
Parent Co.	June	8.67	9.40	D8	2.22	2.21	..
General Telephone Consol.	June	2.18	2.42	D10	..	..	..

D—Deficit or decrease. (a) Six months ended June 30th. (b) Estimate based on report of United Light & Railways Company.

OCT. 28, 1943



What Others Think

Gas Utilities in War-time Britain



THE *New Republic* magazine has recently arranged the distribution of reproduced copies of a series of articles published in Great Britain by an organization known as Political and Economic Planning (PEP). One of these, issued August 17, 1943, deals with "The Gas Industry in War Time." This article discusses steps taken by the British government to solve the problems of war-time operations of the gas industry in England, as well as planning for its future.

It appears that a director of gas supply was set up in 1941 under the Board of Trade, and taken over by the Ministry of Fuel and Power on its formation in 1942. Its duties were to insure a sufficient supply of gas to essential factories and to advise upon the best means of developing the industry as a public service.

One of the first measures taken by the directorate was the appointment of a number of suitable engineers as liaison officers to study conditions, particularly in important industrial areas, and to keep the directorate informed in detail of every actual or potential danger of gas shortage. Their functions were advisory and not executive. They maintained direct contact between the directorate and local gas undertakings, and advised the latter generally on how to proceed, especially *vis à vis* government regulations, in order to overcome difficulties arising from war-time conditions. Later, they were appointed throughout the country to regions broadly corresponding to the civil defense regions, and ultimately they acted under the regional fuel and power controllers. They were intended to act in close coöperation with the Industrial Gas Development Centres.

FURTHER, during 1942, Gas Engineering Advisory boards with district autonomy were formed with the encouragement of the directorate. These were bodies designed to help in the solution of gas-making problems arising out of war conditions and in the achievement of fuel economy. In conjunction with the directorate and under the Institution of Gas Engineers they prepared recommendations on fuel conservation measures throughout gas works. In a crisis they helped to provide undertakings with specialized labor. The directorate ceased to function in March, 1943. Thereafter a committee of five representatives of the gas industry was set up to advise the Ministry of Fuel and Power. A gas adviser to the ministry was also appointed.

The Heat Supplies Committee, first set up by the Production Executive, was taken over by the Ministry of Fuel and Power early in 1943. It was an inter-departmental committee concerned with the supply of gas and other fuels, but not electricity, for war production purposes, and with correlating the requirements of the three supply departments.

Since 1939 research has been coördinated in Great Britain under the so-called Gas Research Board. Much useful work had previously been carried out by the Institution of Gas Engineers. By the middle of 1943, practically 76 per cent of the British gas industry had allied itself to the Research Board. The PEP article describes the board as follows:

Its objects are twofold: to stimulate the application of existing knowledge and to encourage the search for new knowledge. Data and experimental results obtained through the work of the Research Board are available to all its members; when they form the basis for commercial development the responsibility passes from the board to the industry.

PUBLIC UTILITIES FORTNIGHTLY

The scope of the Research Board does not at present include industrial development work or process testing. It has been suggested that the board might undertake research on coke, tar, and the treatment of coal as well as on the production of gas. There is also a great need for economic as well as technical research in connection with the industry.

B RITISH gas utilities were included in the government's War Damage Scheme for public utilities (promulgated November, 1942), whereby the government undertook to pay at least half the cost of any war damage suffered by utilities from bombings or other hostile enemy action. Another regulation, the Gas Supply Order, in 1942 released gas utilities from their obligation to consumers when damage to works or plants makes the maintenance of normal supply impossible.

With respect to the cost of certain civilian defense measures, which gas utilities as well as others must undertake, the British government makes available a grant of up to 50 per cent. But even so the industry has been left with a heavy burden.

The requirements of the Civil Defense Act include preventive measures to assure continuity of supply in the event of air raids such as the interconnection of the mains of adjacent companies. Producer gas plants were installed at individual factories as an alternative source of supply in case of service being cut off from the gas holders. Certain gas engineering advisers were nominated by the Board of Trade in each region to coördinate safety measures and to organize mutual aid parties to assist in repairing gas damage.

The article states that this organization has proved equal to the calls made upon it and there has been no serious or prolonged cessation of supply. The principal trouble has been due to floodings of gas mains by water—a form of damage which although foreseeable could not have been forestalled.

Shortage of labor, especially for carbonization, has been a serious source of difficulty for the British gas utilities. Until 1942 the industry was not given the highest priority for labor and had

to compete with other kinds of work. This shortage affected the gas utilities in two ways: first, by delaying the unloading of coal and hindering the charging of retorts, and, second, by increasing the time required to erect new plants or overhauling old ones. Success was had in recruiting several hundred men in northern Ireland for gas utility employment in England.

In 1941 women were employed as slot collectors and meter readers and as assistants in engineering and fitting shops. By 1942, women were employed on maintenance work such as painting and had successfully taken over some of the instrument work and recordings. In coastal towns, women are even doing some gas fitting, coke loading, lathe operation, stocking coal, store keeping, and cooker cleaning.

Since October, 1938, wages of all gas utility workers in Great Britain have increased 37 per cent (as of January, 1943). This is in contrast to a corresponding increase of over 64 per cent in the wages of workers in all principal industries of Great Britain.

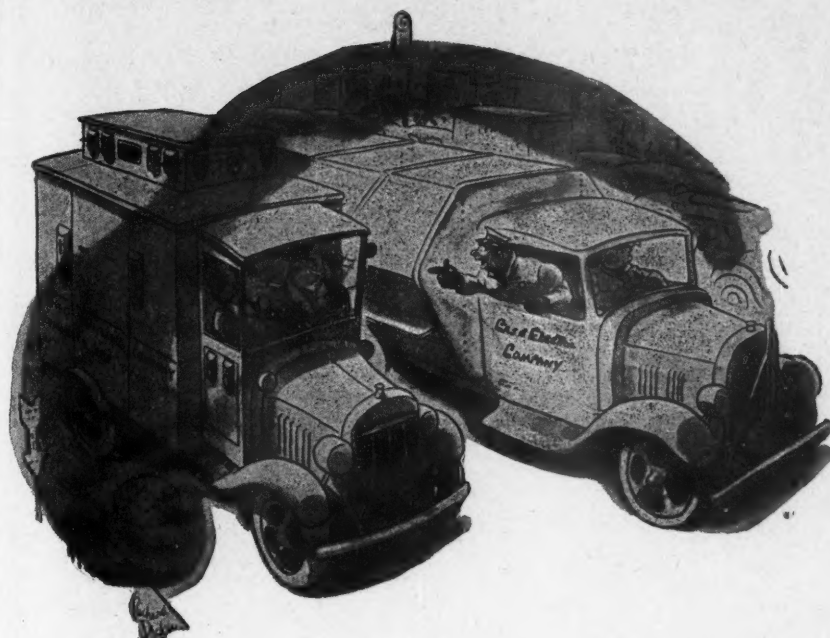
C ONCERNING rate experience of British utilities during the war, the PEP article states:

In a few towns there have been reductions in the price of gas. But in general it has been found necessary to raise it.

In November, 1939, the price of gas was increased by 2½d. per therm by all the six London undertakings, to offset the drop in consumption of 26 per cent and the increase in coal transport costs, cost of materials, insurance premiums, and charges due to ARP. This rise in price was followed by increases in other parts of the country. In 1941 the government, aiming at keeping down the cost of living, prohibited any increase in the price of gas to the general public except under license from the Board of Trade (Defence (Gas Charges) Order, 1941). This hardship was to some extent alleviated by the practice of increasing the coke price by an amount equal to 150 per cent of the increase in the price of coal . . . Further orders in 1942 and 1943 provided for amendments, but left the position substantially unchanged.

It was not until February, 1942, that the Gas Light and Coke Company was allowed to raise its price by 1½d. per therm; this increase, according to Sir David Milne-Watson, governor of the Gas Light and Coke

WHAT OTHERS THINK



Courtesy, *The New Yorker*

"BANG!"

Company, barely covered increases in the cost of coal, oil, and wages. In some areas where evacuation had taken place, undertakings were obliged to operate at a financial loss, although the flat rate was increased by more than 50 per cent. In general the government declined to sanction an increase of more than 30 per cent so long as the undertaking had reserves on which to draw.

In the face of competition from electricity, percentage of gas used for domestic lighting in Great Britain has dropped from 17 per cent to $6\frac{1}{2}$ per cent, while the percentage used for public lighting has increased from 3 per cent to $4\frac{1}{2}$ per cent. The domestic cooking load was also faced with increased competition from electricity. In 1913 there were 8,500,000 domestic gas consumers in Great Britain as compared with from 1,000,000 to 1,500,000 cooking consumers.

One of the most striking effects of the war on British utilities has been the impact of industrial dispersal and civilian

evacuation upon the regular peace-time distribution of demand. The PEP article states:

... While no figures are publicly available for gas output since the war, it is known that in industrial areas consumption has increased greatly—in one district, for example, by 250 per cent. By the autumn of 1942, most undertakings were obliged to decline new orders for gas, even when it was required for war work, because the demand at their works was already up to, or over, the limit of their productive capacity. On the other hand, in evacuation areas, such as London, East Anglia, and the South East Coast, demand has fallen, in some places by 70 per cent.

The growth of communal cooking has caused a further shift from the domestic to the commercial load; by the end of 1941 there were over 1,000 British restaurants using gas. The demand for gas for public lighting has, of course, practically ceased during the war.

The balance of the PEP article deals with fuel economy, coal supplies, etc.

PUBLIC UTILITIES FORTNIGHTLY

Regulation Does Its Job

A most graphic illustration of the effectiveness of public utility regulation is contained in the accompanying chart, based on the reports of the U. S. Bureau of Labor Statistics for living costs and gas service costs in typical American cities.

This chart, which goes back to the year 1913, virtually spans the period of American experience with state commission regulation of gas utility rates. For it was in 1907 that the first full-powered state regulatory commissions were established in New York and Wisconsin; by 1915 every state in the Union with the exception of Delaware had a commission of some sort or another, with various regulatory powers over the several utilities.

The reason behind this installation of state commission regulation of public utility services was simply the recognition of the fact that ordinary competition was economically wasteful in a field more or less designed for natural monopolistic operation. The theory of regulation, therefore, was to provide a substitute for competition which generally prevailed in other fields of enterprise.

How have the two systems operated comparatively? The chart tells the story. Through two world wars *unregulated* commodity prices, affecting the living

costs of the average American citizen, have varied widely. At present, they show a tendency to increase despite the best efforts of our Federal government to "hold the line" through price-control legislation, administered by the OPA. In marked contrast, the average cost of gas service has shown only a fractional rise during the inflationary period which followed World War I and since then has been steadily decreasing, despite an intervening period of economic depression, the declaration of another World War, and consequent rapid increase of unregulated commodity prices.

The gas utility industry is one of the oldest members of the utility family—over a hundred years old in the United States. Hence, the argument that such price declines were due to technical discoveries and improvements does not have as much force as might be applicable to newer utility forms, such as electric power, whose downward price trend over a comparable period follows a similar, if not more pronounced, pattern.

THIS chart indicates clearly that the theory of the state public service commissions has been more than vindicated and that regulation has done its job and done it well.

Can a State Prevent the Export of Its Natural Gas?

CONSTRUCTION of a newly approved \$50,000,000 natural gas transmission line from Corpus Christi, Texas, to Charleston, West Virginia, poses a new and perhaps vitally important question with respect to the rights of a state to prevent indiscriminate removal of its natural resources for consumption elsewhere.

Texas Governor Coke R. Stevenson and Chairman Beauford H. Jester of the Texas Railroad Commission have expressed themselves as strongly opposed to exporting natural gas, which they say

is needed within the state. Said Governor Stevenson: "We should not send away gas which we can use. It furnishes the motive power for industrial enterprise as well as domestic fuel." Said Chairman Jester: "Natural gas has great possibilities in Texas, as shown by research and by actual practice in such plants as the Dow Chemical Company. Dow uses great quantities of natural gas, making products in Texas and employing Texas labor."

The new 1,228-mile line will be built by the Tennessee Gas & Transmission Com-

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pany and will be completed in time to serve eastern industrial centers by the fall of 1944. Jester admitted the Texas Railroad Commission has no authority to stop construction of such a line, which is in interstate commerce. Stevenson said he did not possess sufficient powers for a positive stand, but that Texas should have first call upon its own resources.

THE governor said that he had been advised by sponsors of the proposed pipe line that only gas now being wasted for lack of a useful outlet would be

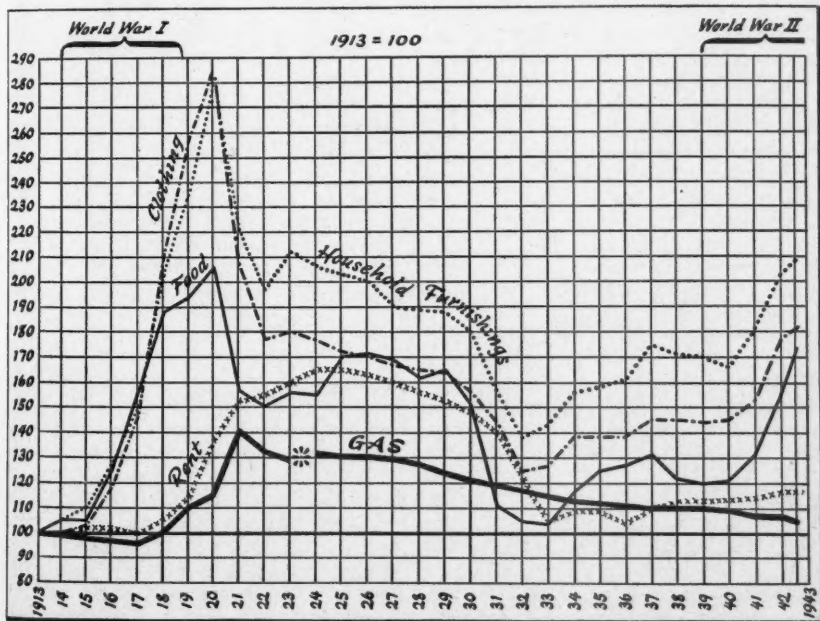
carried from the state. Conservation of natural gas, much of which still is wasted in the production of crude oil, is a subject which the Postwar Planning Commission of Texas would do well to study, Stevenson commented. It involves, he said, both directing the fuel into useful channels and taxation of the gas and lines used to transport it.

Stevenson said he intended to inform himself better about the natural gas and crude oil situations, particularly the need for a higher price to stimulate development, before he went to Fort Worth, October 13th, to address the Texas Mid-



THIRTY-YEAR TREND OF REGULATED GAS SERVICE COSTS, COMPARED WITH UNREGULATED LIVING COSTS

Source: U. S. Bureau of Labor Statistics. Indices for average living costs in typical American cities adjusted to 1913 basis.



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* Since 1923, U. S. Labor indices for gas (manufactured and natural) are based upon heating content (30.6 "therms" monthly usage—adjusted to 1913 index for this chart). Indices before 1923 were based upon cubic foot usage (manufactured gas only).

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Continent Oil and Gas Association.

Transportation of natural gas from the Southwest to eastern industrial areas was a subject of papers at the meeting of the Oil States Compact Commission at Santa Fe, Jester said. One speaker proposed a severance tax on the fuel to keep it from being removed in great quantities to states which have great coal reserves. Jester said that Pennsylvania's representative on the commission warned that such a tax might lead to retaliatory measures in coal-producing states.

Men within the petroleum industry and those interested in bringing new industries to Texas have discussed the possibility that the two major pipe lines built during the war for transporting crude oil and products to the East will be converted into natural gas carriers after the war. Because of the low cost of water transportation, oil men expect ships to take over the business again just as soon as they become available. Meanwhile a 24-inch pipe line is being operated from Longview to New Jersey and a 20-inch products line is under construction.

Texas contains more than one-half the estimated natural gas reserves of the nation.

W. N. BLANTON, an official of the Houston Chamber of Commerce, declared that ground pressure would be reduced and that petroleum production

in the Texas gulf area would be seriously affected, if the anticipated 200,000,000 cubic feet of gas daily are moved through the new line. He assailed the project as "a menace to the economy of Texas from a variety of angles."

He said the petroleum industry considers gas as a part of its oil reserve and is counting on it as a source of gasoline when oil deposits are exhausted.

The same position is being taken by officials in Louisiana, where it is also contended that retention of the gas would be of greater benefit to the state if utilized to supply industries within its borders.

Although the removal of natural gas from these states is being bitterly opposed as a matter of principle, it is not expected that either state will take steps to obstruct any proposal essential for war purposes. How active the opposition will be with respect to postwar natural gas movements is another question.

Governor Stevenson is understood to have suggested that two business limitations might be placed on shipments of natural gas out of the state—one, a higher severance tax on gas, and the other, enforcement of strict conservation methods to insure orderly withdrawal of gas as well as oil from under ground. It was pointed out that natural gas production is subject to restrictions under state conservation law.

—C. A. E.

Gas Industry Sees Big Revenue Producer in Air Conditioning

GAS companies believe that gas refrigeration is the first big revenue-producing appliance since the innovation of the water heater, and after more than ten years of development, it is ready for general public acceptance.

This is the view expressed by T. H. Bean, Jr., of New Orleans (Louisiana) Public Service Inc., in the October 7th issue of *Gas Age*. He says that 27 ac-

tively interested utilities in conjunction with the American Gas Association and equipment manufacturers have sold, installed, tested, and proved more than 100,000 tons of gas air conditioning. As a result of these initial steps, gas utility executives feel the future holds great possibilities for this equipment as a revenue producer and load stabilizer. He continues:

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Much has already been said about the use of gas for large commercial and industrial air-conditioning applications. The steam turbine and steam jet system, using gas-fired boilers as the source of energy for refrigeration and also for heating, date back to early in the twentieth century.

At present such installations comprise the bulk of the total tonnage installed. More recent trends have been along the lines of small, completely self-contained units for use in homes and small commercial establishments—a unit that will provide heat in winter and cool air in summer.

It is this latter equipment that is now out of research and ready for the postwar era. One nationally prominent manufacturer has installed more than 300 such units throughout the United States. Of this number approximately 45 per cent went into residences and the balance into commercial installation. Other manufacturers have also made numerous installations during this 10-year period and are now preparing for assembly line production.

Mr. Bean explains the data obtained from these preliminary installations show an average seasonal gas consumption for a home user during the summer months of 200 MCF (1,000 BTU gas) in the southern states and 50 MCF in the northeastern states. Inversely, he points out, these figures represent approximate consumption for winter heating requirements in the same localities. He adds:

The comparison of gas air-conditioning to water-heating revenue is hardly permissible. The eagerness of the utility to obtain a maximum of 5 MCF per month by promoting the water heater can well be remembered. Here is equipment that uses 250 MCF annually. This is more than four times as much gas as that of any other generally acceptable appliance the industry has ever known.

For the combination company the electric revenue is also attractive. In the southern states the average residential user operating from May through October, with a cooling tower, used 5,174 kilowatt hours, and during winter months 1,825 kilowatt hours.

THE writer goes on to say that the stability of this new load is particularly attractive to gas utilities and adds that finally and still more encouraging is the load factor improvement to be experienced by these installations. In some localities peak demands exist for as little as twenty-three days a year. Exist-

ing systems can handle the additional load without any capital investment and with sales expense for securing the load as the only cost. Mr. Bean adds:

A great deal has been said and written regarding economic conditions immediately after the war. Most writings confirm that it is reasonable to assume prosperity will exist for a period, and Mr. and Mrs. America will want new things and will have the buying power to purchase what they want.

It is the belief of those concerned with these units, that one of the things Mr. and Mrs. America will want, and buy, is year-round air conditioning for their home. Conservative estimates have placed postwar new home construction at 1,000,000 units per year for eight years. A potential market of only 2 per cent of these homes for both heating and cooling equipment presents the probability of a demand for 20,000 units per year.

Moreover, there is yet to be considered the owner who will buy for his existing dwelling. Past experience indicates the number to be approximately 33½ per cent of the new home installations. The extent of the commercial market is unpredictable. In any event it may be expected to equal nearly the number of residential units installed. As a total it is hardly imaginative to assume that 50,000 units per year will comprise this market come the postwar era.

ONE manufacturer, Mr. Bean says, is making plans for an annual production of 10,000 units, which he claims is certainly in accord with the total market to be expected. He estimates that at the end of the first eight years after the war such a market would create for gas companies an annual increase of 100,000,000 MCF, most of which can be served on existing distribution systems. He continues:

Much planning and thought have been given to this program by the utilities already engaged in the promotion of this business. These findings and experiences are available to others, and much preparation is required by new companies before actively promoting this very lucrative market in their territories.

Now is the time that planning should be done. Such action will be in harmony with our government's efforts in postwar planning, including recommendations from the national Committee for Economic Development and the ever-present War Production Board. The New York *Wall Street Journal* on May 8, 1943, in an article pertaining to this same subject, wrote, "The War Produc-

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tion Board shares the gas companies' opinion of the postwar possibilities of the new units, and it gave authority to continue the experiments with the apparatus."

Promotion of gas air conditioning, the writer continues, will not find a ready place in most existing organizations. Each of the three functions—sales, engineering, and service—requires special talent. Two well-defined courses are open to the gas utilities, depending upon the company policy, Mr. Bean declares. The first is to directly sell and install the service. The second is to indirectly promote all or part of these functions through a dealer organization. Each has been tried and much can be said for and against both plans. Whatever the course may be, the responsibility for furnishing adequate and talented man power will rest squarely with the promoting organization. He adds:

The American Gas Association has been acting as a clearing house for all information, and experiences with gas air conditioning. Cooperating utilities have furnished complete histories of their work and findings in this connection to AGA. Summary of these experiences is contained in 1942 Report of Joint Committee on Gas Air Conditioning, and should prove helpful to all who are interested in promoting this type of business.

MR. BEAN says that one of the musts for the utility not as yet acquainted with this program is to purchase, install, and operate for the duration at least one job. This installation should be made as typical as possible. It should be accessible to employees for observation and study. It will be of benefit to salesmen, engineers, and servicemen, and it will present for each company its own direct picture of operating costs.

Why Not an "E" for Public Utilities?

SOME weeks ago the *Electrical World*, noting the fine performance of the operating utility industries in meeting combined war effort and civilian demands, wondered why no Army-Navy "E" for excellence was pointed to the utilities. For some reason or other this is not in accord with established policy on the bestowal of such official recognition of merit. However, the *World* raised the forthright question whether some other similar symbol of recognition should not be forthcoming. There is evidence that the *World's* line of reasoning is finding echo elsewhere, for in a recent column, Frank Waldrop, Washington *Times-Herald* columnist, puts forth a similar query.

It seems a war goods manufacturer, recognizing the uplifting effect such awards have had on his employees, wanted to know why the Army-Navy "E" is restricted to war plants alone. This manufacturer admitted that his companies would not be able to function except for "unsung and unmentioned secondary contributors to their

success, contributors the general public doesn't even know about"—the utilities, the communications companies, and the railroads. Mr. Waldrop added:

We take for granted that the telephone will always work—rationing on telephone service hasn't yet put anything like a severe crimp in service to civilians, and still the telephone companies of America have absorbed a terrific overload for war purposes.

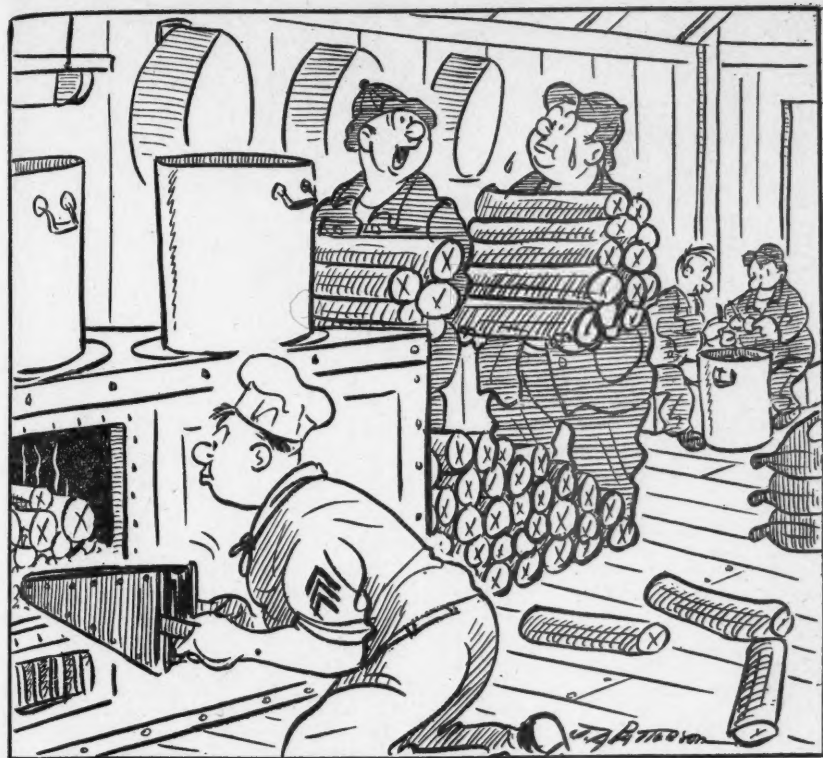
The same is true of power companies. If anybody yet has had a major power failure or refusal of service it doesn't show on the public record.

And while we all cuss the railroads whenever we try to go any place, fairness makes us admit they are moving the greatest volume of tonnage and population ever known in world history—with less confusion by far than was the case in the last war.

MR. WALDROP then quoted statistics—which are well known to the utility industry, but which bear repeating—on the "accomplishments of these three vital backstops to the war work."

Since August, 1940, he pointed out, although the cost of living has increased by approximately 22 per cent, the aver-

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"NOW I AM BEGINNING TO UNDERSTAND THE SLOGAN, 'GAS COOKING IS SUPERIOR'"

age price of household electricity has actually declined since that time. He continued:

In 1939, the electric power and light industry of America supplied 51,000,000,000 kilowatt hours to industry. Last year it supplied 88,000,000,000 kilowatt hours to this group—an increase of 37,000,000,000 kilowatt hours or 73 per cent.

Total kilowatt hours supplied to all customers increased from 106,000,000,000 kilowatt hours in 1939 to 159,000,000,000 kilowatt hours in 1942. Still, no rationing.

THE telephone industry—despite the fact that it has lost so many of its trained technicians to the armed forces and government agencies—has been called upon to perform a stupendous task in meeting the wire communica-

tions requirements of a nation at war and still maintain a satisfactory standard of service to the civilian population. Mr. Waldrop explained:

An accurate measure of the task performed by the telephone industry is contained in the war-time increase in long-distance calls.

In 1939 the nation's long-distance calls totaled 59,218,000. In 1942 this figure had increased to 114,360,000—an increase of 93 per cent. The increase in Washington (D. C.) alone from January 1, 1941, down to the present has amounted to 275 per cent.

The railroads, in 1942, moved 638 trillion ton miles of freight—an increase of 305 trillion or 92 per cent over 1939. Passenger miles traveled, in this same period, increased 23 trillion to 54 trillion—

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an increase of 135 per cent, despite the fact that approximately 50 per cent of the Pullman service was lost to military purposes.

Mr. Waldrop continues:

These are stupendous facts and no other country in all the world can boast an approach to them. If this work had not been accomplished our Navy would not today be hunting for Japs. . . Our bombers would not be punching through to Germany in day-

light. And our armies would not be tightening the ring around Hitler.

The little fellows in the ranks of the communications, transportation, and power industries have put nerve and muscle into the war effort that could not have been had any other way.

He, too, believes they deserve and are entitled to an "E" from the Army and Navy. When will something be done about it, they all ask.

Governor Green Urges Fight For States' Rights

MEMBERS of the National Association of Railroad and Utilities Commissioners, awakening to the need for a vigorous fight to restore and preserve states' rights, have an ardent supporter in Governor Dwight H. Green of Illinois.

Governor Green, the guest speaker at the association's annual dinner meeting in connection with its national war conference in Chicago last month, struck out vigorously against Federal government encroachment on the rights of states and declared that preservation of American democracy demands that the states recover those prerogatives relinquished to the Federal government as a contribution to the winning of the war. The association members repeatedly during the conference made it clear that they would stand for no more invasion of their authority by Federal agencies and even took steps to limit the powers of one agency—the Federal Power Commission. Said Governor Green:

When this war is ended we must return to the ways of the constitutional form of government which has made this the most prosperous and powerful nation in the world. The states must take back all of the rights they relinquished temporarily in the name of complete and enduring victory.

Every bureaucracy tends to preserve its existence as long as it can, even after the necessity for its function has passed. The preservation of our American system of freedom and private enterprise demands the preservation of state autonomy in the regulation of every local phase of public services.

It will be most unfortunate if, either by

law or through a system of financial control by loans from publicly endowed Federal banking institutions, any American community shall have to go to Washington for approval of plans to improve its local public services.

GOVERNOR Green lauded the aims of the Illinois Postwar Planning Commission which he created and revealed that millions of dollars had been set aside for use of the commission in carrying out a postwar program for Illinois to insure employment for returning servicemen as well as civilians who will find themselves without jobs when war production ceases. He urged the officials of every state to do everything within their power to develop their own postwar plans so that the states could, in fact, justify their claims to sovereignty.

He recognized that there would probably have to be some Federal government contribution, but urged that it be kept to a minimum through the efforts of the states themselves.

He said the Illinois Postwar Planning Commission "is no bureaucratic boondoggle dominated by astral-minded professional planners. Its members are sound, hard-headed businessmen—farmers and working men. They have been instructed to work with—and not over—the people in solving postwar problems." He added two freedoms to the four advanced by President Roosevelt—"the freedom of enterprise and the freedom of individual opportunity"—as necessary points in American democracy.

The March of Events



To Shift Natural Gas Interests

THE Securities and Exchange Commission on October 11th approved the plan of Standard Oil Company of New Jersey to transfer to Consolidated Natural Gas Company all of its interests in five subsidiary companies in return for all of the capital stock of Consolidated. An investment of \$48,032,734 is involved in the transfer.

Subsidiaries affected are Hope Natural Gas Company, East Ohio Gas Company, Peoples Natural Gas Company, River Gas Company, and New York State Natural Gas Corporation, the latter a pipe-line company. The five companies operate an interconnected natural gas system in the states of West Virginia, Ohio, Pennsylvania, and New York.

Consolidated, created by New Jersey Standard Oil, recently registered with the commission as a holding company. It will turn over to Standard Oil 2,728,359 shares of its \$15 par common stock, which will then be distributed to Standard Oil Company's stockholders on the basis of one share for each ten shares of Standard Oil common now outstanding. Cash will be paid to stockholders entitled to receive fractional shares.

Fuel Waste Combated

A PROGRAM to combat wasteful practices in the use of coal, coke, wood, petroleum, and gas was started on October 8th. According to Secretary of Interior Ickes, emphasis will first be placed on commercial and industrial plants, while home owners and others will come later.

Dr. R. R. Sayers, director of the Bureau of Mines, named a National Fuel Efficiency Council of twelve engineers to direct the campaign. At a recent meeting the council estimated that 29,000,000 tons of coal could be saved by more efficient utilization.

FPC Sets Gas Hearing

THE Federal Power Commission on October 8th announced its order setting hearing at Fort Worth, Texas, on applications filed by the El Paso Natural Gas Company, El Paso, Texas, for certificates of public convenience and necessity under § 7 of the Natural Gas Act (1) to construct and operate additional facilities in New Mexico and Arizona

(Docket G-472); (2) to acquire and operate the facilities of the applicant's wholly owned subsidiary, Fort Huachuca Gas Company (Docket G-474); and (3) to acquire and operate a portion of the facilities of applicant's wholly owned subsidiary, El Paso Gas Transportation Corporation (Docket G-475). The recent order consolidated these matters for the purpose of hearing.

According to the application designated as Docket No. G-472, the El Paso Natural Gas Company proposes to build about 35.3 miles of loop line extending from the company's No. 4 compressor station in Luna county, New Mexico, and about 23.3 miles of loop line extending from its Morenci compressor station in Greenlee county, Arizona.

Treasury Tax Bill Doubtful

THE Treasury's tax proposals would hit utilities hard if enacted. Although only the communications and transportation utilities would be affected by direct excise taxes, Secretary of the Treasury Morgenthau's scheme for raising the combined normal and surtax rate on corporation incomes from 40 per cent to 50 per cent would severely burden virtually all utilities and railroads. This is because normal and surtaxes make up the major part, in many cases the whole, of the tax bills of such companies. Under the Morgenthau scheme the percentage tax payments by utility companies would run approximately 25 per cent.

It was obvious from the very first day of the introduction of the Treasury plan that the administration did not hope to obtain approval of its proposals. On the contrary, using the administration's familiar technique of overshooting the real objective for bargaining purposes, the Treasury experts were reported to be simply out to salvage what they could of their program in the face of congressional opposition.

Present outlook is that the Treasury plan will be scrapped outright. The House Ways and Means Committee gave every indication of writing its own tax bill on an entirely different basis than that used by the Treasury. It is a little early to venture a forecast as to possible increases in the corporate tax rate or the nature of new excise taxes which may be levied.

There is still a possibility of a general

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sales tax which would automatically relieve the pressure for specific taxes.

The Treasury proposals for increased taxes on communications and transportation have a twofold objective: first, the obvious revenue-raising probabilities; second, an attempt to discourage the use of facilities which are already overburdening a combination of war and civilian traffic. Hence the proposal to increase the tax on long-distance telephone calls from 20 to 25 per cent and on monthly telephone bills from 10 to 15 per cent—also the proposal to increase the tax on passenger transportation from 10 to 30 per cent.

The Treasury probably reflects the administration's fear that any proposal to increase the present long-standing excise tax on electricity (3 per cent paid by the companies) would emphasize the tax exemption now enjoyed by publicly owned plants and bring forth strong agitation for the elimination of such discrimination. In writing its own tax bill, however, the House committee may venture into this field anyway, unless its attention is diverted by the discussion of a general sales tax.

Bills Ask St. Lawrence Action

AUTHORIZATIONS for the construction of the St. Lawrence waterway to open up the Great Lakes to Atlantic ocean traffic, and to develop water power resources are sought in bills recently introduced by Senator Aiken of Vermont and Representative Pittenger of Minnesota.

Mr. Aiken said, however, there was little hope for adoption of the measures during the war, despite their having the support of the War, the Navy, the Commerce, the Agriculture, and the State departments.

The development would cost about \$429,000,000, of which Canada would pay \$144,000,000, Mr. Aiken said, while New York state would furnish \$93,375,000 of this country's share of \$285,000,000. Much already has been spent by the United States government for related emergency shipping facilities.

The St. Lawrence would be deepened to 27 feet, which is sufficient for sea-going vessels. Power plants would be constructed by the state of New York, but the Senate bill would require the state to sell excess power to adjoining states. Present plans call for development of 2,250,000 horsepower, Mr. Aiken said.

The project was one of the favored proposals of the National Resources Planning Board, but Mr. Aiken said that the agency's plans called for development of 6,000,000 to 7,000,000 horsepower of energy, or sufficient to care for 31 per cent of the country's requirements.

As to the objections of anthracite and bituminous coal interests and the United Mine Workers, Senator Aiken said that experience at the Tennessee Valley Authority project had shown that coal consumption rose five or six

times over previous levels because of the need for stand-by or auxiliary power development stations. Such auxiliary units were put into use when water levels dropped, he mentioned.

Ross Succeeds Haas

MONSIGNOR Francis J. Haas on October 2nd announced his resignation as chairman of the President's Committee on Fair Employment Practices to become Bishop of Grand Rapids. Monsignor Haas said that at present the committee was losing no time in acting on charges against railroads and railway unions.

He would not leave office for "some days," he said.

The Bishop-elect declined to "recommend" a successor. President Roosevelt on October 15th named Deputy Chairman Malcolm Ross to succeed him as chairman. In his resignation Monsignor Haas said:

"The terrible needs of war exact that we use to the utmost the hands and the high skills which Negro citizens, Spanish-Americans, Jews, and loyal men and women of foreign extraction are offering willingly to their country's service.

"The essential rightness of the President's executive order against discrimination because of race, creed, color, or national origin appeared clear to me when I took office as chairman of the committee four months ago.

"In that brief period the close experience with the problems of the men and women who have suffered discrimination at the hands of fellow-Americans has deepened my conviction that this practice must be purged from our national life if we are both to win this war and consolidate our life as a democratic nation thereafter."

ICC Upholds Increases

FOR the second time in two weeks, the Interstate Commerce Commission thwarted attempts of government agencies to prevent increased common carrier truck rates in the East from becoming effective, when it denied on September 29th a petition of five government agencies for reconsideration of a decision granting truckers in the Middle Atlantic states a 4 per cent advance.

The commission previously had rejected protests of the Office of Price Administration, the War and Navy departments, the War Food Administration, and the Office of Economic Stabilization against the proposed general increase of 4 per cent in traffic between New England and certain areas in New York and New Jersey and between points within New England.

The new rates, effective October 4th in the Middle Atlantic states, are 10 per cent above the current level of railroad charges for shipments of the same weights of comparable commodities.

THE MARCH OF EVENTS

ICC Rejects Pool Plan

THE Interstate Commerce Commission recently denied the application of Allied Van Lines, Inc., and other motor vehicle carriers for permission to pool certain traffic services, gross and net earnings, operating rights, and properties.

"The record is not persuasive," the ICC stated in a majority opinion, "that the proposal would be consistent with the public interest."

The carriers, which sought to pool their operations, included 269 corporations, 19 partnerships, and 74 individuals, operating in 224 cities. Twenty-three of the carriers are in New York city. All operate storage warehouses, and a large part of their business derives from the transportation of household goods. Certain of the carriers, however, transport general or specified commodities.

The effect of the application, had it been granted, would have been to create an almost nation-wide, unified system of motor carrier transportation, in which the entire interstate and foreign intercity household goods carrier business would have been operated as a unit, with Allied Van Lines as the sole agent to manage and conduct the pooled business, the commission found.

The ICC, however, held that the degree of control by Allied provided in the proposed pooling agreement would be of such a nature that the other members of the pool would lose their identity as common carriers and hence would not constitute the type of common carrier pooling which the commission is authorized by law to approve.

Noted Economist Dies

RICHARD THEODORE ELY, one of the principal founders of the American Economic Association, and often called the dean of American economics, who had been professor of economics at Johns Hopkins, Wisconsin, and Northwestern universities, died at his home in Old Lyme, Connecticut, on October 4th at the age of eighty-nine.

Dr. Ely was born on April 13, 1854, on a farm at Ripley, Chautauqua county, New York. His parents were of old New England stock. As a boy, young Ely worked on the farm, attended public schools, and the state normal school, and was sent to Columbia University. There he helped pay his own way by tutoring. He won a fellowship in letters and upon graduation went to Germany for four years to study at Heidelberg, where he took his PhD in 1879, and at Halle, Geneva, and the Royal Statistical Bureau in Berlin. Upon his return to America he did newspaper work and then, in 1881, became a professor of political economy at Johns Hopkins.

In 1885 Ely, Professor James of the University of Illinois, A. D. White, and Woodrow Wilson founded the American Economic Asso-

ciation which held as its major premise that "*laissez faire* is unsafe in politics and unsound in morals." Dr. Ely served as secretary of this society during its first seven years, was its president from 1889 to 1901.

Dr. Ely resigned from Johns Hopkins in 1892 and went to the University of Wisconsin to be senior professor of a department of six professors, four associates, and four instructors. He remained at Wisconsin until 1925. In that year his own organization, the Institute for Research in Land Economics and Public Utilities, was removed to Northwestern University, and Dr. Ely became research professor of economics there. In 1933 he left Northwestern, having already established an office for his institute in New York.

Conservation Lags

DEFINITE concern about the prospects for success of the 7-point, voluntary conservation program was recently reported felt by the Office of War Utilities. Reports from all over the nation show that unnecessary lights are still burning and that coal stocks in dealers' yards in many sections are being depleted at an alarming rate. OWU wants to give the electric industry every opportunity to put into effect its part of the voluntary conservation program to save coal, oil, man power, and critical materials.

While the electric utilities have been buying considerable advertising space urging conservation of electric power, OWU is wondering whether sufficient local groundwork has been laid by the utilities to make the voluntary drive really effective. OWU recognizes that if a serious fuel shortage should occur this winter, the opposition will increase against continued waste of fuel to general electric power for unnecessary lights, etc.

Quebec May Seize Utility

PREMIER Joseph Adelard Godbout of the Province of Quebec, following a cabinet meeting in Quebec on October 8th, forecast the expropriation of Montreal Light, Heat & Power Consolidated. The Premier issued a statement in which he said a bill would be presented at the next session of the Quebec legislature to expropriate and nationalize the Montreal power company. This action was being taken, he added, to provide the people of the province with cheaper power.

The Premier's announcement came after an earlier announcement in Montreal that the Quebec Public Service Commission had established a new formula of rate calculation for the company which involved a reduction of rates to consumers. The commission said it would sit November 12th to hear any evidence the company might submit to show reason why rates of the company should not be calculated on the basis of the new formula laid down by the commission.

Arizona

Governor's Charges Dismissed

Governor Sidney P. Osborn's charges that the Phoenix and Tucson public utilities allegedly failed to pass on to consumers certain gas rate reductions were found by the state corporation commission on October 8th to be erroneous. The chief executive's case, accordingly, was dismissed by the commission with the statement "that the allegations contained in the complaint were not sustained" by auditorial investigations.

When the commission docketed the case for a public hearing several weeks ago, Governor Osborn petitioned for a dismissal, but the commission refused his plea pending an inquiry into the records of the Central Arizona Light

& Power Company and the Tucson Gas, Electric Light & Power Company.

In his complaint filed December 12, 1942, Governor Osborn charged the two utilities and all others similarly situated had received rate cuts from the El Paso Natural Gas Company, but had not given consumers the benefits of such reductions. The governor alleged that prior to November 1, 1942, the reductions in Phoenix and environs amounted to approximately \$517,811.44, but "no substantial benefits" were passed on to the consumers. The amount assertedly not passed on in Tucson was not disclosed. The Federal Power Commission order directing certain reductions by El Paso Natural Gas Company to Arizona utilities formed a portion of the governor's case.

California

Forty-eight Hour Week Ordered

NEWSPAPERS, the motion picture industry, privately owned utilities, and commercial printers were ordered on a 48-hour week on September 30th in Los Angeles, Ventura, Orange, Santa Barbara, and Riverside counties. The action was taken by the War Manpower Commission's war-time work-week committee.

The only exceptions within these industries are clerical workers, who will be on a 44-hour week, and actors, executives, and others in the motion picture field who keep irregular hours.

Between 18,000 and 20,000 utility workers would go on the 48-hour week schedule as a result of the decision. Scores of thousands more in the other fields likewise will join many who recently went on the longer hours without any application for exemption.

Calls Line Pact "Betrayal"

U. S. Representative Carter, Republican, recently termed Interior Secretary Ickes' announcement that the government would build a 97-mile power transmission line from Shasta dam to Oroville a "direct betrayal" of the intentions of Congress.

Carter said that in its report refusing appropriations for a line to Oroville, the House Appropriations subcommittee had expressly stated that no funds in the Interior Department bill for the fiscal year 1944 or any funds previously appropriated to the department were to be used for the construction of the line.

This stipulation was not written into the bill, Carter explained, and Ickes therefore holds that he is governed by the Interior Department bill approved by Congress and not by the report.

District of Columbia

Transit Workers Face Ban

EMPLOYEES of the Capital Transit Company who stop work in opposition to the hiring of Negro workers will be refused certificates of availability for other jobs, the United States Employment Service has ruled, it was disclosed, recently.

This revelation came when hearings began on the transit firm's request for permission of the District of Columbia Public Utilities Commission to convert 52 2-man streetcars to 1-man operation. The statement was made by Monsignor Haas, chairman of the Fair Employment Practices Committee.

Conversion of the streetcars was not immediately challenged by the streetcar union, which has opposed further use of cars of that type for many years. Instead, the union's representative, T. Ormond Nichols, merely asked that the record of the hearings remain open pending a union study on the effect of further conversion, as regards comfort, safety, and convenience. In effect, this would permit insertion of a challenge later.

Monsignor Haas said his committee had been advised by USES officials that there now exists a pool of 328 qualified available Negro applicants, classified as bus drivers or reportedly skilled in kindred work, such as truck

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drivers and tractor drivers. He had been advised, he said, that 300 Negro applicants with basic qualifications as platform men had been referred to Capital Transit between May 10th and October 1st. Only eight of this number

accepted referral to the company, the others explaining they preferred to wait until the controversy between the transit firm and the committee had been resolved, Monsignor Haas said.

Kansas

Evidence in Gas Test Completed

JUDGE Samuel Crosby, trial examiner in the Federal Power Commission hearings in Topeka involving four Kansas gas corporations, was on his way back to Washington on October 9th to prepare his report on the hearings and present it, with the trial records, to the commission. Taking of testimony was completed October 8th.

It is expected that a decision will be handed down the latter part of November.

The hearings were held to determine whether three of the companies, Fin-Ker Oil & Gas Production Company and the Tri-County Gas Company, of Holcomb, and Kansas Natural Gas, Inc., are natural gas companies within the meaning of the Natural Gas Act and are subject to the jurisdiction of the FPC.

Although the gas is not owned by any of these companies when it crosses the state line, evidence was presented in the hearing to show that these companies engage in interstate commerce through a complicated process of selling to each other and then to the Kansas-Nebraska Natural Gas Company, which owns the gas and the lines crossing the state boundary.

There is no question of Kansas-Nebraska Natural Gas Company's standing under the Natural Gas Act. The hearing for this company was to determine if it must secure approval to build compressing stations on lines already established and in areas already operating. The company has built several such stations and the FPC is questioning the right to build them without a certificate from the commission.

Kentucky

Court Upholds Rates

LOUISVILLE's water rates, challenged by a group of consumers as exorbitant and as constituting an illegal special tax in a suit filed in March, 1940, were upheld by the court of appeals at Frankfort last month.

The opinion, written by Judge Alex L. Ratliff and concurred in by the whole court, upheld Circuit Judge Churchill Humphrey's dismissal of the suit on the grounds that the group of citizens failed to prove the water

rates charged by the municipally owned plant were exorbitant or that rates were so high as to constitute a special tax, in violation of the state Constitution.

The Louisville Water Company is, and has been, a separate entity from the city since it was established by the city 1854, the high court held, adding that under such conditions the city has a legal right, through its water board, to make a contract with the water company for rates so long as they are not "exorbitant and unreasonable."

Maryland

Utility Merger Approved

THE proposed merger of two of Maryland's largest electric light and power companies—one of the steps in a projected extensive consolidation of utility interests in the Delmarva peninsula area—was approved on October 6th by the Maryland Public Service Commission.

Following a formal hearing, the commission approved the merger of the Eastern Shore Public Service Company of Maryland and the Maryland Light & Power Company, now

serving the Eastern Shore and southern Maryland, respectively.

The consolidated company, to bear the name of the Eastern Shore firm, will serve consumers of electricity in Worcester, Somerset, Wicomico, Dorchester, Caroline, Talbot, Queen Anne, Kent, Cecil, Prince George's, Charles, Calvert, and St. Mary's counties in Maryland. Stock in the merged company will in turn be acquired by the Delaware Light & Power Company, whose merger with the Eastern Shore Public Service Company of Delaware is also projected.

Michigan

Armed Forces Privileged

ALL uniformed members of United Nations armed forces, men and women, who are in Detroit on leave and not stationed in that city, are privileged to ride Detroit Street Railway streetcars and busses free, Samuel T. Gilbert, president of the street railway commission, said recently. To clarify an apparent misunderstanding, Gilbert said it was the com-

mission's intention to grant the privilege not only to officers and men in the Army, Navy, Marine Corps, and Coast Guard, but also to the WACS, WAVES, SPARS, women Marines, and their counterparts in other United Nations forces.

C. J. Wendt, DSR general superintendent of transportation, said a commission resolution of last November 4th covered all members of United Nations armed forces.

Nebraska

Lower Gas Rates Likely

CONFERENCES between Arthur J. Weaver, Jr., chairman of the council's special rate committee, and L. R. King, president of Iowa-Nebraska Light & Power Company, were recently said to give some promise of lower gas rates for Lincoln consumers.

Mr. King, Weaver said, was having the auditors investigate the rate structure to determine just how a reduction would reflect against the company's financial structure. Such investigation naturally must go into the various classifications.

"I am hopeful rates may be reduced," said Weaver. "Mr. King and other officials have cooperated in every way and our relations have been most pleasant. The studies may require from ten days to two weeks and naturally it would be premature to attempt any predictions at this time. I agree with Mayor Marti in the thought that rate reductions are, generally speaking, preferable to occupation taxes. The consuming public must pay the latter in any event."

Mayor Marti expressed himself as pleased with developments to date.

Petition Thrown Out

PETITIONS attacking creation of a people's power commission under LB 204 were rejected by the Omaha city council early this month after Harold C. Linahan, city attorney, said he believed them invalid. The council placed the petitions on file.

Linahan said that the council's action in creating the commission was "administrative and judicial in its scope and purpose as distinguished from legislative," and that therefore "it is not subject to referendum action and cannot legally be submitted to a vote."

The council recently appointed the commission. At an organization meeting it named a committee to take steps to acquire the Nebraska Power Company, but said that any acquisition would have to be approved first by voters.

George Delacy, attorney for the Nebraska Power Company and for power company employee organizations which sponsored the referendum move, was present but declined to discuss immediate plans. "If the matter is to be carried into court it will be done by the organizations of Nebraska Power Company employees," he said.

Linahan also held that LB 204 was a general state law and that it can be suspended only by a statewide referendum. Linahan said that since the petitions were invalid there was no reason to check the signatures.

Two mandamus actions asking that the Omaha city council and the newly appointed People's Power Commission be prevented from taking any further action toward acquisition of the Nebraska Power Company until a vote of the people is held were subsequently filed in district court. The suits brought the controversy into the courts for the first time. They were filed by representatives of two organizations which had carried the brunt of the power company's fight to prevent appointment of the commission under LB 204.

First suit was by Frank C. Heinisch, chairman of the Omaha on Guard Committee, and Arthur A. Westergard. The second suit was by Martin W. Nelson and Edward A. Hoffmann, circulators of a second initiative petition asking the council to reconsider its earlier action in appointing the power commission.

Asks Utility Figures

COUNCILMAN Wilkinson of Lincoln recently reintroduced his ordinance, formerly defeated, calling for the listing with the city clerk of names, addresses, and salaries of all officers, directors, and employees of utilities doing business in Lincoln drawing compensation of \$3,000 or more annually.

He told his colleagues that a remarkable discovery was made when L. R. King, president of the Iowa-Nebraska Light & Power Company, recently appeared informally before the council's special committee.

"We found," he said, "that they are setting

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aside as much as \$34,000 per year to go into a pension fund that will permit retirement, on pension, for all from the president down. This means retiring officers of a foreign corporation with the hard-earned money of citizens. The president could retire on pay higher than the salary paid the governor."

Wilkinson also presented a resolution calling for appointment of a committee of six, including the three city directors, to make studies to determine advantage from municipal ownership of the local gas business.

The council's special committee—Arthur J. Weaver, Jr., chairman; Virg Kittrell; and Wilkinson—is now studying gas revenues and expenditures for the purpose of arriving at conclusions relative to rates and occupation tax.

Mr. Wilkinson presented a 2-page communication in support of his pending ordinance calling for a 5 per cent occupation tax on gas revenues. This ordinance and a similar one proposing a like tax against the traction company were laid aside for two weeks at the preceding meeting because of appointment of the committee.

Wilkinson's ordinance proposing to tax the telephone company on a 5 per cent occupation basis was on second reading.

Council Passes 5-cent Fare

THE city council of Lincoln passed the fare franchise ordinance by unanimous vote early this month and also unanimously approved a resolution directing the mayor to execute the street replacement contract. Mayor Marti asked City Attorney Kier to endeavor to induce Lincoln City Lines to put the 5-cent fare

into effect before expiration of the fifteen days when the franchise would take effect.

George A. Lee, local counsel for Lincoln City Lines, received the executed contract for street replacement, together with check for \$62,500, from Chicago and immediately advised Mayor Marti and City Attorney Kier. Contract and check were placed in escrow until the effective date of the franchise ordinance with which the contract has no direct connection as a component part but does constitute a condition.

The occupation tax remained, though on a different base. Instead of requiring one per cent on gross city revenue, the franchise calls for \$50 per year per unit.

Condemnation Halted

THE city of Kearney was temporarily enjoined on October 4th from proceeding with condemnation of the Consumers Public Power electric distribution. The injunction was granted by District Judge E. G. Reed on petition of consumers and three Kearney citizens, Charles E. May, O. L. Erickson, and A. C. Wittera. Reed ordered a hearing set for October 18th, and required the plaintiffs to post \$10,000 bond.

Clarence E. Davis, Consumers attorney, said the city, in proceeding with the condemnation and issuance of revenue bonds, constituted a "breach of public trust and blatant character." He said the law forbids issuance of revenue bonds without approval of a majority of voters. The petition stated they voted 416 to 856 last April 1st against the issuance of revenue bonds for that purpose.

New Jersey

Rail Tax Decree Signed

A FINAL decree invalidating 1941 and 1942 laws that waived approximately \$24,000,000 in delinquent railroad tax interest and provided for payment of the \$34,000,000 principal in periods ranging up to twenty years was signed last month by Vice Chancellor Wilfred H. Jayne.

The decree, giving legal effect to Vice Chancellor Jayne's recent decision holding that the legislation was an unconstitutional donation of state funds, continued a restraint on the state treasurer from accepting tax payments under the compromise.

The ruling is being appealed to the court of errors and appeals.

Joins Suit on Bus Law

A LAW enacted by the state legislature in 1941 requiring local boards of education to provide transportation for children attend-

ing parochial and other nonprofit private schools on the same basis as is provided for public school pupils was challenged recently as "contrary to a very fundamental concept of our system of government" and defended on the ground that "the right of the equal application of the law requires that the welfare of children attending private schools must be as much a concern of the state as the welfare of children in tax-supported schools."

Suing as an individual taxpayer, A. R. Everson, executive vice president of the New Jersey Taxpayers Association, has petitioned the state supreme court to set the law aside as unconstitutional. His action was opposed by the Ewing township school board. The American Civil Liberties Union intervened on October 5th as a friend of the court and supported Mr. Everson's views. The attorney for the union, Joseph Beck Tyler, charged in a brief that the state Constitution prohibited use of public money "directly or indirectly in aid or maintenance" of a denominational school.

New York

Stay in Rental Case Denied

THE state water power and control commission began hearings on October 5th to determine the amount of rental to be charged the Niagara Falls Power Company under an act of the 1943 legislature, for 15,100 cubic feet a second of water diverted by the company from Niagara river for power purposes.

Lauman Martin, of counsel for the company, protested the hearing pending an appeal to the appellate division from an order of Justice Pierce Russell, of the supreme court, dismissing a petition by the company to restrain the commission from proceeding before the courts have passed on the constitutionality of the legislative act, which was passed on the recommendation of Governor Thomas E. Dewey. Justice Russell also refused to grant the company's petition for a stay.

Attorney General Nathaniel L. Goldstein, member of the commission, said the act became effective last July 1st, and that there had been too many delays already in determining the amount of rental. He said the company could be assured that all its rights would be reserved, but that the state wants to produce its evidence as soon as possible.

Utility Seeks Reserve

NEAL BREWSTER, presiding commissioner of the state public service commission, on October 11th announced that Earle J. Macchold, president of Niagara Hudson Power Corporation, had proposed that \$35,000,000 be set aside from the surplus of the consolidated Niagara Hudson Company on completion of its pending organization, to provide for such adjustments of its utility plant accounts as the commission may lawfully order. The proposal was embodied in a letter from Mr. Macchold to the commission, which was read at the resumption of hearings on the utility system's plan of consolidation.

Mr. Macchold's letter stated that the proposal was made in order to expedite the consolidation and at the same time to conform to the commission's policy. At a previous hearing held in Albany on September 17th, the commission ruled that it had jurisdiction as to the actual cost of all properties embraced in the consolidation and might proceed formally to determine original cost matters before passing on the proposed consolidation. The matter was considered further at a conference held on September 29th at the office of the commission in New York city, at which all parties who had appeared at previous hearings on the plan were represented.

Mr. Macchold said "there are substantial and sincere differences of opinion between the commission's staff and ourselves as to the original cost items," but agreed that it is with the dis-

cretion of the commission to determine these matters after the consolidation is effected.

FPC Denies Gas Petition

THE Federal Power Commission on October 6th announced its orders and opinion (No. 105) denying (1) an application filed on April 2, 1943, by Cabot Gas Corporation for permission to abandon the service of natural gas from its 14-inch pipe line to its customers in the state of New York and to abandon the transportation of natural gas for ultimate redelivery to Godfrey L. Cabot, Inc., its parent company; and (2) an application, also filed on April 2nd by Godfrey L. Cabot, Inc., for permission to cease supplying natural gas to Cabot Corporation, to Producers Gas Company at points in Angelica and Belmont, Allegany county, New York, and to certain customers of Empire Gas & Fuel Company also in Allegany county. On April 12, 1942, the Cabot companies filed similar applications, which the commission denied by order dated January 5, 1943, for reasons stated in its opinion No. 86. "In the light of all evidence, including that with respect to the probable demands and supply of natural gas of both Cabot, Inc., and Cabot Corporation," the commission's opinion states, "we are unable to conclude or find that the available supply of natural gas is depleted to the extent that the proposed discontinuance of service is warranted. Neither can we find that present and future public convenience and necessity would permit such abandonment of service; therefore, the applications to abandon service must be denied."

Discussing the applicants' claim that if abandonment of service is not authorized they will not be able to meet the probable demands of their customers, estimated at 569,648 mcf for the 12-month period ending April 30, 1944, the commission stated "we believe the record fully justifies the conclusion that the aggregate of these estimates by the applicants is excessive by about 93,000 mcf," and gives as its estimate a total of 484,542 mcf of gas available to Cabot, Inc., to meet demands this winter. "The indicated production and purchases therefore exceed the estimated total demands for the period by 7,856 mcf."

Lease Renewals Refused

THE state public service commission recently announced that it had refused to approve renewal of leases expiring November 15th of bus franchises by Westchester Street Transportation Company for lines in Westchester county. The franchises are held by Westchester Electric Railroad Company and New York, Westchester & Connecticut Traction Company. Denial was on the grounds that financial arrangements between the traction

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companies are not in the public interest.

The commission sustained the recommendation of its hearing examiner, Harold M. Olmsted. His recommendations stated in part:

"The proposed leases embodied financial provisions that produced distorted income statements, unreliable and undesirable for rate making and other regulatory and public purposes. If the bus company makes a profit from operating the lines, this is turned over to the lessor and appears as an expense of the bus

company. The more such profit it makes, the more its apparent net income from its total operations is reduced. If losses result, the reverse occurs.

"The lessors are now receiving large sums merely for the use of franchises and consents, and, even as to these, they have no investment, according to their balance sheets. The income statement of none of the three petitioners presents a correct picture of the results of the operations conducted by them."

Ohio

Emergency Resolution Passed

An emergency resolution authorizing and directing the utilities committee of the Cleveland city council to inquire into the cost of a survey of the value of the properties of the Cleveland Electric Illuminating Company by a firm of experienced engineers was adopted last month, effective September 24, 1943.

The contract between the Cleveland Electric Illuminating Company and the city expires on July 6, 1944, when it will become necessary for the council to pass a new rate-fixing ordinance authorizing a new contract with the company.

The utilities committee was authorized and directed to proceed with an investigation of the cost, terms, and conditions of a survey of the value of the properties of the electric com-

pany for the purposes of a rate-fixing ordinance. A report of said investigation, together with recommendations of the committee, would be made to the city council.

Transit Systems Sold

SALE of all capital stock of the Youngstown Municipal Railway Company and the Akron Transportation Company to A. C. Allyn & Company of Chicago, investment brokers, and the Equitable Securities Corporation of Nashville, Tennessee, by the Transportation Securities Corporation, a subsidiary of the Commonwealth & Southern Corporation, was announced recently by Richard N. Graham, operating head of the two companies.

Oklahoma

Water Utility Standard Set

An order establishing rules and regulations prescribing standards for water service and providing for testing of water meters and otherwise regulating service of water utilities was issued by the state corporation commission majority recently.

W. J. Armstrong, minority member, would not vote for it but it was approved by Reford Bond, chairman, and Ray O. Weems, vice chairman.

"I wouldn't approve the order because it means investigating and checking and some

other regulations I figure to be in favor of the utilities instead of the consumer," said Armstrong.

The order applies to about 15 private utility companies operating in the state and was prepared by W. Kemp Walker, gas and electric engineer, and Floyd Green, attorney.

Weems said a similar order was in effect in other states and this one does not apply to municipally owned utilities. He said it provides that where someone objects to water rates and asks for an investigation he shall pay the corporation commission for the expense of making a check of the meter.

Tennessee

Gas Company Appraisal

ENGINEERS already have started work on an appraisal of facilities of the Nashville Gas & Heating Company to secure an estimated valuation of the properties, which the firm recently offered to sell to the city of Nashville, W. C. Baird, chairman of the Nashville

Power Board, announced on October 8th.

Baird said the survey was being conducted by representatives of Stone & Webster, nationally known Boston engineering firm which specializes in appraisals of public utilities. The engineers were retained by the power board on request of the city board of administration after Mayor Thomas L. Cummings reported

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receipt of a letter from S. E. Linton, president of the gas company, urging that the city take steps to take over the utilities. Linton, whose firm is affiliated with the United Gas Improvement Company and has been ordered sold by

the Securities and Exchange Commission under death sentence provisions of the Holding Company Act, declared that an attractive price could be quoted the city on the facilities "for a limited time only."

Texas

Gas Hearing Announced

THE Federal Power Commission on October 8th announced its order setting hearing at Fort Worth on applications filed by the new Lone Star Gas Company, Dallas (which was incorporated under the laws of Texas in December, 1942, pursuant to a proceeding before the Securities and Exchange Commission under § 11(b) of the Public Utility Holding Company Act), for certificates of public convenience and necessity under the Natural Gas Act (1) to acquire and operate the properties of its predecessor in interest, the old Lone Star Gas Company (organized under the laws of Texas in 1909), and (2) to construct and operate a pipe-line connection between the Lone Star Company's 16-inch gas pipe line and the United Gas Pipe Line Company's 10-inch line near Fort Worth. The two proceedings were consolidated for the purpose of hearing.

The recent order provided that interested state commissions could participate in the hearing as provided in the commission's provisional rules of practice and regulations under the Natural Gas Act.

City Urged to Purchase Firm

A REQUEST that the city buy the Dallas Power & Light Company and operate it or lease it to an operating company was filed with city councilmen this month by Clayton D. Browne. He submitted figures purporting to show that the city would have made a surplus of \$3,063,531 on operations in 1942.

Browne, a Dallas real estate and property

owner, also argued that the city should in no case give up its right to acquire the utility company in the proposed new franchise and he opposed an election on the contract with that waiver included in the contract.

The council made several changes in the proposed franchise early this month which they described as corrective and explanatory. Then they passed the document on second reading, with one opposing vote by Mayor Pro Tem J. B. Adoue, Jr.

A final vote on the proposed franchise, to which power company officials have said they could not agree because of the section dealing with depreciation reserves in case the city acquires the property, could not be taken before October 20th.

Browne said he opposed further action on the contract, particularly if it continued to include a provision waiving the city's right of purchase for ten years. He contended that provision is worth from \$10,000,000 to \$15,000,000 to the company over the 10-year period. Because of the war, Browne said also he opposed an election on the franchise relinquishing the city's option to buy. Lack of public interest would insure a vote favorable to the company, he said, and that would hamper the city in the future.

The city and company have agreed on a rate reduction of more than \$600,000 a year and an increase in direct payments to the city and other municipalities through a 4 per cent gross receipts tax.

City officials of Dallas also have agreed to waive the right to purchase for ten years but a deadlock has developed in case the city does buy the properties.

Washington

Power Companies Sustained

THE state department of public service held with power companies on October 5th, in an action by public utility districts to compel the companies to provide the districts with wholesale rate schedules for supplying electric energy. The department sustained the power companies' contention the department had no jurisdiction over the matter.

The complaint of Public Utility District No. 1 of Clallam county said its condemnation suit against the Puget Sound Power & Light Com-

pany is to be heard on November 15th, and the district wanted the rate schedule so it could arrange its bond sale program in the event of acquiring the power company's properties.

Another complaint was filed against the Washington Water Power Company by utility districts of Okanogan and Douglas counties, asking that the department require the company to provide them with wholesale rates.

It was expected the districts would appeal to the Thurston County Superior Court from the department's ruling.

The Latest Utility Rulings

Escape from Lease Obligation Influences Approval of Purchase Price



THE Pennsylvania commission, Commissioners Buchanan and Morgal dissenting, approved the transfer by Lehigh Valley Transit Company to Pennsylvania Power & Light Company of electric facilities owned by the former for a total consideration of \$1,900,000, although the commission found that the net investment of Lehigh was \$1,598,000. The commission did not place great emphasis upon various measures of value such as reproduction cost, capitalized rental value, and cost of substitute facilities, but it did consider the fact that the purchaser was obligated under a lease to pay \$250,000 a year until December 31, 1947, for the use of the facilities.

If the lease should continue until that time, the commission pointed out, PP&L would be obligated to pay something more than a million dollars of rental and still be without title to the property at the end of the term. On the other hand, if the commission approved the transactions, PP&L, by the payment of \$1,900,000, would not only be released from such obligation but would in fact have title to the property.

It was also noted that under the terms of the lease PP&L had obligated itself to maintain the property, and while the cost of such maintenance fluctuates from year to year, whatever amount it expends is lost to it so long as the present lease arrangement continues. The commission found that "as a matter of ordinary sound business judgment" PP&L should be permitted to buy the property for the price stated.

Before reaching this conclusion the commission discussed its duties in regard to proposals of this sort, stating that it existed for the primary purpose of regulating the rates and service of monopolies

in lieu of the competition to which ordinary enterprises are subject. It is, so to speak, the referee between the public utility and its customers. The commission continued:

The significance of the transaction before us, in our rôle of referee, arises from the fact that the actual cash outlay by a public utility for its plant (which may or may not coincide with either reproduction or original cost) is an important element in that utility's rate base and in its allowable depreciation expense; and that both of these are major factors in the price paid for service by the public. The commission has power to pass upon transactions of this type because it is recognized that two parties cannot contract without regulation where a third interest, not a party to the contract, must ultimately pay the bill.

Reference was also made to the fact that the applicants were under a common executive control and were subsidiaries of the same holding company. A contract between affiliates, said the commission, is the opposite of a contract at arm's length, where each party is looking to his own interests only.

Commissioner Buchanan, in a dissenting opinion, criticized "fair value," "reconstruction cost new," and the ultimate price in relation to a mortgage balance of \$1,890,750.

He took exception to the statement that a regulatory commission acts as a "referee" between public utilities and consumers, stating:

If we do, the "referee" had better get a new boarding house and acquire some religion.

We are here to protect the public interest and that means the great, unorganized, uninformed group of people known as consumers whose sole trust and reliance for protection against abuses arising out of protected monopolies is in their government or its administrative agencies. The utilities always have been and always will be very able

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to take care of themselves and will charge the "bill" for so doing to the ratepayer. Our duty is to watch those "bills." We must remember that regulatory commissions were established because the utilities wronged the public and not because the public wronged the utilities.

But the most ludicrous part of the 4-paragraph majority opinion is the endorsement given to "ordinary sound business judgment" in the last paragraph. Whose judgment?

The answer is the judgment of John S. Wise, Jr., president of Pennsylvania Power & Light Company, buying a piece of property from John S. Wise, Jr., president of Lehigh Valley Transit Company, a moribund utility with a mortgage which it couldn't pay when it came due eight years ago and is coming due again in 1945.

Re Lehigh Valley Transit Co. et al. (Application Docket Nos. 62206-62209).



Holding Company Granted Rehearing on Certain Issues in Integration Proceeding

THE Securities and Exchange Commission has granted a rehearing on the question of retention of certain non-utility properties in various parts of the Cities Service Power & Light system under the "other business" clauses of § 11(b)(1) of the Holding Company Act. The commission had found that disposition of these properties was required, in *Re Cities Service Power & Light Co.* Release No. 4489, August 17, 1943.

The holding company claimed that because of concessions by counsel for the public utilities division of the SEC, it was not advised that any issue was to be raised upon retainability of those properties and that it was not afforded a full opportunity to make a record. The commission was aware of the concessions and the problems raised, but its order of divestment had been predicated on its belief that the company had given the commission all the relevant evidence at its command.

Power & Light controls properties lying generally in three sections of the country—Ohio; Missouri; Kansas, Oklahoma, and Arkansas; and Wyoming, Colorado, New Mexico, and Arizona. Each of these was considered separately in the commission's opinion. Since the standards of Clause (B) of § 11(b)(1), as the commission has interpreted them (see *Re Engineers Pub. Service Co.* (1941) 40 PUR(NS) 1) automatically bar the retention of the major groupings under common control, counsel for the

company introduced no evidence and made no argument to show that combination of the large groups would be possible under Clauses (A) and (C). The company, however, pointed to the fact that the commission's interpretation of Clause (B) is now in question before the court of appeals for the District of Columbia in the *Engineers Case*, and it requested leave to introduce evidence under Clauses (A) and (C). The commission denied this request with the statement:

Such evidence would be complex and voluminous and would require much time for preparation, presentation, and consideration. There is no place for the evidence unless we are required by the courts to assert some theory of Clause (B) which would permit the retention of the highly scattered systems of Power & Light. If we are required to adopt such an interpretation we have ample power under § 11 to reopen these proceedings to take such evidence and make such modifications of our order as may be appropriate. And upon a showing of due diligence and possible prejudice Power & Light may obtain a year's extension for compliance. Even on the expiration of that period Power & Light will have the protection of the courts against prejudice. We cannot discern any present reason for the additional evidence or any instant harm to Power & Light in permitting the record to stand.

The commission had reserved jurisdiction respecting certain properties but had failed to make a similar reservation respecting other properties related to them, and therefore held that a petition for

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amendment of the order to include the related properties within the reservation should be granted.

A rehearing on various other issues was denied with the statement that in connection with the allegations of the petition for rehearing no particular defects in the commission's findings were pointed

out, no parts of the record were alluded to in support of claims of error, and in general it was apparent that this part of the petition had been filed merely as a formal step preliminary to seeking judicial review. *Re Cities Service Power & Light Co. et al.* (File No. 59-7, Release No. 4551).



City Cannot Become Stockholder of Electric Company

THE supreme court of Florida, although sustaining the validity of bonds issued by the city of Key West for the purpose of acquiring an electric light and power plant, held (by a divided court) that the effect of one provision of the ordinance governing acquisition would be to make the city a stockholder in a corporation in violation of the state Constitution.

The principal and interest of the bonds were made payable solely from net revenues derived from operation of the electric system and in no way constituted a lien or debt on the city.

The state Constitution prohibits the legislature from authorizing any municipality to become a stockholder in any company, association, or corporation. It was therefore held that the municipality

was not authorized, either by contract or by ordinance, to become a stockholder with others in any company, association, or corporation. Any acquisition by a municipality of any stock (less than entire ownership) in any corporation was said to be *ultra vires* and void.

The ordinance providing for acquisition of the plant authorized city officials to use the proceeds of the revenue bonds for acquisition of the properties "through the purchase of the controlling capital stock of said company, to vote such stock in the name of the city for the liquidation or dissolution of said company by payment of all liens and obligations, and effecting transfer of said properties to the city free and clear of liens and encumbrances." *State v. City of Key West*, 14 So(2d) 707.



Exemption from Price Control Act Limited to Ordinary Public Utilities

A WAREHOUSE regulated as a public utility in California is not, according to a Federal court decision, a "public utility" within the exemption clause of the Emergency Price Control Act. The court concluded that the exemption of public utilities was intended to have a uniform meaning and effect throughout the United States without regard to the provisions of state law.

The fact that a business is designated as a public utility by the Constitution and laws of a state is not determinative of its right to the exemption. What Congress

had in mind, said the court, was the exemption of all public utilities as ordinarily understood.

Pursuing the argument that the congressional intent was to exempt those businesses actually regulated as public utilities, counsel for the warehouse company had suggested that the Price Administrator might fix rates of common carriers and other public utilities whose rates are not otherwise regulated. Acceptance of this view, said the court, would in effect make of the Price Administrator a public utility commission

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for the state of Delaware, in which state there is now no state regulation of the rates of common carriers or other public utilities.

The court observed that it was the thought of Congress that public utilities did not present a serious price-control problem even in the absence of regulation, since public utility rates are based upon a long series of judicial determinations even though not subject to statutory regulation, for it is well established that at common law a business of a public nature and invested with a monopoly was under the duty of furnishing its service to the public at reasonable rates. On this point the court stated in part as follows:

Consequently it was entirely reasonable to leave out of the price-fixing procedure set up by the statute the whole area of public utility rates, since most of them were already subject to statutory regulation and the remainder were limited by fixed principles of law.

The court discussed the factors considered in reaching a conclusion as to public utility status. It was pointed out that a purely private business which has no franchise from the state and enjoys no monopoly may be subject to price regulation as a business affected with a public interest if a reasonable basis for such action can be shown. As stated in the *Nebbia Case*, the phrase "affected with a public interest" can in the nature of things mean no more than that an industry for adequate reason is subject to control for the public good.

The decision in the *Munn Case*, said the court, was based upon the proposition that the business of a public warehouseman was "affected with a public interest" and consequently its charges might be regulated. The court, in that case, did not discuss the question as to whether the business was a public utility. *Davies Warehouse Co. v. Brown*, 137 F(2d) 201.



Prohibition against Telephone Cut-off Device Reversed by Court

THE Pennsylvania Superior Court reversed a commission order requiring a telephone company to discontinue the use of a cut-off device to terminate local telephone conversations by individual line subscribers. The court held that the commission had invaded the province of management, that findings holding that the use of the device was unreasonable were not supported by competent evidence, and that automatic interruption of messages was not inconsistent with the company's tariff definition of a local message as a message five minutes or less in duration.

The cut-off device does not restrict a subscriber to one call of six minutes with another station. It merely interrupts the service. A warning tone is sounded one minute before the cut-off. When the connection is thus broken, a subscriber may redial the same number and continue the conversation, subject to interruption every six minutes.

Although redialing is some inconvenience and there is always the chance that another who has been waiting for an opportunity to call may intervene by making a connection, this, said the court, is the very purpose of the device. There was evidence of the reasonableness of a limitation of six minutes when compared with the holding time of the average user of a telephone.

It is often difficult to draw the line between regulation, which is properly the function of the commission, and management, said the court; but in the present case, where no unlawful discrimination was found, the court was of the opinion that the commission overstepped the bounds of proper regulation and assumed the rôle of manager in directing the change in service. Judge Rhodes dissented on this point.

A rule or method, the court continued, is not unreasonable merely because it results in some inconvenience to a class en-

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THE LATEST UTILITY RULINGS

titled to service. A telephone company doing a general public business may adopt new methods of furnishing service to its patrons if they are reasonable. Good faith is to be presumed on the part of company officers, and the commission may not substitute its judgment for theirs when the choice is between two systems which provide reasonable and adequate service without discrimination.

The commission had recognized the right of the company to police its lines and to terminate a conversation after five minutes, but it indicated that this right should be exercised only when overtime preemption interfered with the use of the lines by others. Upon the ground that the device did not discriminate between reasonable and unreasonable use in that

respect, the commission had found that in operation it violated the tariffs. The court, however, said that in its practical aspects such policing of all calls going through exchanges would be impossible of performance, and in conclusion said:

In our view the automatic interruption of a local message after six minutes is not inconsistent with the definition of the tariff. Under it appellant had the right of termination after five minutes. The method employed in accomplishing the cut-off is unimportant if the minimum holding time is respected, although in strictness appellant's tariff should be supplemented by a description of the device in operation as applied to all classes of service.

Pennsylvania Telephone Corp. v. Public Utility Commission, reversing 47 PUR(NS) 28.



Expense of Street Railway Included in Apportioned Cost of Crossing Removal

THE supreme court of New Jersey upheld a contention by a street railway company that expenses incurred by it in altering its property and structures in compliance with a commission order entered in 1915 should be included in the total cost, 10 per cent of which was to be charged to the street railway. The board, in accordance with the contentions of the railroad company, had determined that the street railway company must pay 10 per cent of the expense of crossing elimination, excluding its own expenses, and must pay its own expenses in addition.

The applicable statute provided that the expense of alterations should be paid by a railroad, unless a street railway uses the crossing, in which event the board might order not exceeding 10 per cent of the expense directly chargeable to the crossing used by the street railway company to be paid by that company and the balance to be paid by the company operating the railroad.

Another statutory provision applicable to this case provided for telegraph, telephone, gas, electric, lighting, power, water, oil, pipe lines, or other company or corporation, copartnership or indi-

vidual paying their own expense to move or change the grade or location of their property or constructions in conformity with the order of the board. It was noted by the court that street railways were not included in this list of companies but that later the statute was amended to require railroad companies to pay only 50 per cent of the cost of eliminating crossings, and the section relating to the other companies was amended to include street railways in the class of utilities required to pay all their own costs.

The court concluded that the "entire expense" of the elimination, and, in cases where a street railway exists, 10 per cent of "such expense" should be construed so that the words "such expense" refer back to "entire expense." Where a street railway is in existence, the entire expense is increased by the cost of moving the tracks and facilities of the railway.

The court overruled a contention that the street railway company was estopped from raising the question in this case because in the adjustment of the cost of other projects the street railway had acquiesced in the board's interpretation excluding the street railway company's

PUBLIC UTILITIES FORTNIGHTLY

expenses from the "entire cost" of the project. *Public Service Coördinated Transport v. Board of Public Utility Comrs. et al.* 33 A(2d) 579.



Other Important Rulings

THE Missouri commission held that it had no jurisdiction to assess against a private corporation any portion of the cost of a proposed grade crossing, although the private corporation did own switch tracks located at the proposed crossing. *St. Louis v. Missouri Pacific Railroad Co. et al.* (Case No. 10354).

The supreme court of Ohio held that an appeal from a commission order granting a contract motor carrier permit should be dismissed where the holder of the permit has surrendered rights under the permit and an order revoking it has been entered on the commission records. *Commercial Motor Freight, Inc. et al. v. Public Utilities Commission*, 49 NE(2d) 764.

A commission order finding that public convenience and necessity require proposed motor carrier service in territory being served by an existing carrier and ordering the expansion of the existing carrier's service to provide the additional service, according to a ruling of the supreme court of Ohio, affects such a substantial right of the existing carrier as to be a final order from which an appeal may be taken. *Cleveland, Columbus & Cincinnati Highway, Inc. v. Public Utilities Commission*, 49 NE(2d) 759.

A Texas court held that a taxicab company had no vested right to use city streets or highways between the city and a municipal airport located outside of corporate limits in the operation of its business, so as to entitle it to an injunction against enforcement of a penal ordinance fixing taxicab rates between the city and the airport. *City of Ballinger v. Boyd*, 173 SW(2d) 363.

Carriers and passengers alike are bound by rates duly filed with the Interstate Commerce Commission unless the commission finds such rates unreasonable, it is held by the supreme court of Arkansas, and ignorance or misquotation of rates is no excuse for paying or charging less or more than the filed rate. *Pullman Co. v. Anderson*, 172 SW(2d) 431.

A Federal court held that it could not set aside a conclusion of the Interstate Commerce Commission that proposed railroad rates were not unjust or discriminatory or otherwise unlawful where it could not say that there was no rational basis for the commission's conclusion. *Pacific Inland Tariff Bureau et al. v. United States*, 50 F Supp 376.

Authority to conduct motor carrier service over a route served by an existing carrier should not, according to a ruling of the West Virginia Supreme Court of Appeals, be granted unless existing service is inadequate or unless there is a public need for the additional service. *Reynolds Transportation Co. v. Public Service Commission*, 26 SE(2d) 519.


A Federal court held that the Interstate Commerce Commission, in granting a certificate under the "grandfather" clause of the Motor Carrier Act, is not compelled to limit the carrier to the exact pattern of his operations on the effective date of the act, and in determining the scope of his "grandfather" rights it may consider service which he was offering as well as that which had actually been performed by him prior to such date. *Chicago, St. Paul, Minneapolis & Omaha Railway Co. et al. v. United States et al.* 50 F Supp 249.

NOTE.—The cases above referred to, where decided by courts or regulatory commissions, will be published in full or abstracted in *Public Utilities Reports*.

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COMPRISING THE DECISIONS, ORDERS, AND
RECOMMENDATIONS OF COURTS AND COMMISSIONS



VOLUME 50 PUR(NS)

NUMBER 2

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RE CITIES SERVICE GAS COMPANY,

FEDERAL POWER COMMISSION

Re Cities Service Gas Company

[Opinion No. 95, Docket No. G-141.]

Return, § 11 — Rate base under Natural Gas Act — Cost — Fair value.

1. Section 6(a) of the Natural Gas Act, 15 USCA § 717e(a), authorizes the ascertainment of the actual legitimate cost of the property of every natural gas company, and only when found necessary for rate-making purposes the ascertainment of the "fair value" of such property, p. 71.

Valuation, § 39 — Rate base — Exclusion of reproduction cost evidence.

2. Exclusion of evidence of reproduction cost and so-called "fair value" of natural gas properties in a rate proceeding is proper when estimates of such reproduction cost and fair value are at best synthetic figures not taken from the books and records and do not purport to represent actual cost or investment, while actual legitimate cost of the property is accurately ascertainable from the books and records, p. 71.

Valuation, § 74 — Cost determination — Exclusion of write-ups.

3. No part of a write-up can be included in the rate base when it does not represent actual legitimate cost or investment, p. 72.

Valuation, § 321 — Intangibles of affiliated predecessors — Unsupported items — Litigation expenses.

4. So-called "intangibles" carried on the books of affiliated predecessors of a natural gas company, not representing actual legitimate cost of plant in service, should be excluded from the rate base when no evidence concerning these intangibles is offered and no claim made for their inclusion in the rate base as actual legitimate cost, but litigation expenses as to which evidence is offered may be allowed, p. 73.

Valuation, § 348 — Capitalized expenses — Past losses — Recoupment.

5. Operating expenses purporting to represent the cost of carrying unused pipe-line capacity after the construction period has ended, claimed as representing past losses in operating a gas line, should not be included in the rate base, particularly where the company has recouped these expenses in a year when its return was large, p. 73.

Valuation, § 113 — Expense of natural gas survey.

6. The cost to a natural gas company of making a survey of natural gas resources to assist in determining future policy with respect to acquisition of gas acreage, the primary object being to determine whether the company could depend on gas purchases for the major portion of its supply or should acquire additional acreage, after which existing acreage has been added, should be included as a part of the cost of natural gas rights and leaseholds, p. 74.

Valuation, § 373 — Leaseholds and natural gas rights — Past operating expenses — Abandoned leases — Interest.

7. The rate base of a natural gas company should not include, as part of leaseholds and natural gas rights, delay rental expense on leases abandoned

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by an affiliated predecessor, delay rental expense on leases transferred from affiliates, interest not previously capitalized and not supported by the evidence, and bonus costs and rentals applicable to leases abandoned by a predecessor, p. 74.

Valuation, § 69.1 — Cost determination — Payments to affiliates.

8. A natural gas company, in a rate proceeding, must show the reasonable cost of services rendered by an affiliate and profits exacted by a holding company, as ratepayers are not required to pay a return on such profits, p. 75.

Valuation, § 69.1 — Cost determination — Payments to affiliate.

9. Fees paid by a natural gas company to an affiliate, not supported by evidence, were allowed as part of the rate base for the purpose of an interim rate order, the company being given a further opportunity before the entry of a final order to establish the actual legitimate cost of services rendered, p. 75.

Valuation, § 69.1 — Original cost — Property acquired from affiliate — Capitalized deficit.

10. The original cost of property acquired by a natural gas company from an affiliate is properly included in the rate base instead of the amount of plant account consisting of a capitalized deficit of the affiliate and the amount paid for its stock, p. 76.

Valuation, § 202 — Unrecorded retirements — Depreciation adjustment.

11. Costs applicable to retired property, erroneously reinstated in plant accounts, should be eliminated in arriving at actual legitimate cost of property in service, with a corresponding reduction in the depreciation reserve requirement, p. 77.

Depreciation, § 34 — Reserve requirements — Property retired.

12. The full cost of depreciable property which has been retired should be deducted from the depreciation reserve requirement (accrued depreciation), p. 77.

Valuation, § 67 — Cost determination — Proceeds from purchase and sale of securities — Depreciation.

13. Proceeds derived from the purchase and sale of securities, and depreciation, which have been erroneously deducted from plant account should be restored to the plant account in determining a rate base, p. 78.

Accounting, § 56 — Revision of accounts — Past expenses — Interest — Cost changes.

14. Criticism of a refusal to include in plant accounts past operating expenses and interest which a company in the past elected not to capitalize and to restate the cost of pipe at prices differing from those appearing in the plant accounts is simply an attempt to impeach the book records, kept in pursuance of a deliberate policy prescribed by the company management; these are not accounting errors, p. 78.

Valuation, § 104 — Accrued depreciation — Required reserve as measure.

15. Accrued depreciation of property is the sum of the proper annual depreciation expenses from the beginning of the property less the total net cost of property retired, p. 80.

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Depreciation, § 26 — Annual expense — Consistency with accrued depreciation.

16. Annual depreciation expense and accrued depreciation are two aspects of the same phenomenon which require consistent treatment, p. 80.

Valuation, § 290 — Working capital — Current assets and liabilities.

17. Computation of working capital requirements by taking the excess of current assets over noninterest-bearing current liabilities is unsound and inherently fallacious for rate-making purposes; by this device there would automatically be included in the working capital allowance such items as surplus cash on hand and cash held for payment of dividends, interest, and debt retirement, p. 83.

Valuation, § 290 — Working capital — Minimum bank balances.

18. No separate provision should be made for minimum bank balances in determining an allowance for working capital when the company has the use of funds representing tax accruals during the period between collections from customers and payments to taxing authorities and this amount provides more than the amount of cash claimed for minimum bank balances, p. 83.

Return, § 25 — Reasonableness — Profits of other businesses.

19. A public utility has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures, p. 84.

Return, § 101 — Natural gas company.

20. A return of $6\frac{1}{2}$ per cent was approved as fair and liberal for a well-established natural gas utility with a high earnings history achieved after ample provisions for depreciation and depletion, p. 84.

Revenues, § 8 — Profits from extraction of residuals.

21. Excess profits of an affiliated company from extraction of gasoline and other residuals, rendering natural gas more readily marketable and transportable and reducing the heat content, should be credited to natural gas operations of a public utility, p. 85.

Intercorporate relations, § 6 — Jurisdiction of Federal Commission — Arrangement between affiliates.

22. The basis of settlement between a natural gas company and an affiliated oil company does not preclude the Commission from inquiring into the reasonableness of the arrangement by which the affiliate extracts gasoline and other residuals from natural gas and the cost of the processing done by the affiliate, p. 85.

Depreciation, § 14 — Basis — Actual cost.

23. Depreciation expense is properly based on actual legitimate cost of property in service, excluding write-ups and other improper items, p. 87.

Depreciation, § 21 — Depletion allowance — Unit of production.

24. Depletion of investment in gas wells and producing leases is properly computed by the unit-of-production method, p. 87.

Expenses, § 114 — Taxes — Overaccruals — Saving in income tax.

25. Adjustments of tax expense as shown on a company's books by eliminating overaccruals and giving effect to savings in Federal income taxes because of a rate reduction are necessary and appropriate, p. 88.

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Expenses, § 136 — Natural gas company — Dry-hole expenses.

26. Dry-hole expenses of a natural gas company incurred in a test year should be included in operating expense although work orders were not completed until the following year, p. 88.

Expenses, § 9 — Estimates — Experience of latest year.

27. Use of the latest full calendar year of record was held to be reasonable in fixing natural gas rates notwithstanding estimates of increases in future operating expenses, the Commission preferring to accept experience as revealed by the company's most recent operations, p. 89.

Rates, § 196 — Unit for rate making — Regulated and unregulated service.

28. An allocation of cost as between jurisdictional and nonjurisdictional sales of natural gas must be made in fixing rates for natural gas service subject to regulation of the Federal Power Commission, where the company devotes part of its facilities and operations to service which is not subject to such jurisdiction, p. 89.

Apportionment, § 9 — Commodity or demand cost — Return, depreciation, and state income taxes.

29. Return, depreciation, and state income taxes of a natural gas company are properly treated as being "commodity" costs in part and "demand" costs in part instead of all being treated as "demand" costs, p. 90.

Apportionment, § 10 — Demand costs — System peak — Natural gas.

30. Utilization of an assumed peak day as a basis for allocating demand costs of a natural gas company, instead of using deliveries on the all-time system peak day, is too unrealistic to merit serious consideration, p. 90.

Valuation, § 225 — Contemplated pipe line — Urgent necessity — Shortage during war.

31. The public interest was held to require an allowance for return and depreciation on a proposed natural gas pipe-line system, in connection with an interim reduction of gas rates only, because of an urgent necessity for relieving a gas transportation shortage during a war emergency, although a strict interpretation of rate-making principles might require no allowance on this project until it was completed and in service, p. 91.

[July 28, 1943. Rehearing denied September 21, 1943.]

PROCEEDING under Natural Gas Act involving reasonableness of interstate wholesale natural gas rates; interim rate reduction ordered.

APPEARANCES: Robert D. Garver, O. R. Stites, and R. Cullison, for respondent, Cities Service Gas Company; John Randolph and Lester G. Seacat, for the intervener, Missouri Public Service Commission; William E. Kemp and Jerome M. Joffe, for the intervener, city of Kansas City, Missouri; Harold Medill, for the

State Corporation Commission of Kansas; Floyd Green, for the Corporation Commission of Oklahoma; Frank H. Terrell, for Bituminous Coal Producers; Harry C. Clark, for United Mine Workers of America; Harry S. Littman, Lambert McAllister, and Stanley M. Morley, for the Federal Power Commission.

RE CITIES SERVICE GAS COMPANY

By the COMMISSION: This is a rate proceeding under the Natural Gas Act, involving the reasonableness of the interstate wholesale natural gas rates of Cities Service Gas Company.¹ It grew out of a complaint by the Public Service Commission of Missouri in May, 1939, alleging in substance that its efforts to determine the fair and reasonable rates for gas sold by the company for resale and distribution in Missouri had been thwarted by the company's refusal to furnish pertinent information and data and requesting that this Commission undertake an investigation of the rates subject to our jurisdiction.

On July 26, 1939, the company was directed by our order to show cause why its rates should not be reduced. In its answer, the company failed to offer a reduction in its interstate rates or to file appropriate responses and challenged the jurisdiction of this Commission. Thereafter this rate investigation was initiated by our order of October 20, 1939.

Hearings were begun on November 30, 1942, and continued thereafter from time to time before a trial examiner through forty-one days until February 2, 1943. At these hearings the company presented twenty-three witnesses, while nine members of our staff (after making extensive investigation of the company's books, properties, and operations) testified. The record before us is comprehensive and voluminous, comprising 6,505 pages of transcript and 64 exhibits.

Members of the Missouri Public Service Commission and the State Corporation Commission of Kansas

sat jointly with this Commission's trial examiner throughout the hearing. The Corporation Commission of Oklahoma was represented by counsel. The Public Service Commission of Missouri, and the municipality of Kansas City, Missouri, participated as interveners. Although we granted certain bituminous coal-mining corporations and the United Mine Workers of America the opportunity to introduce relevant and material evidence, file briefs, and make oral argument, they did not do so.

Jurisdiction

It clearly appears from the evidence that Cities Service Gas Company is a natural gas company within the purview of the Natural Gas Act, and that its interstate wholesale rates for natural gas are subject to the jurisdiction of this Commission. Indeed, the company has not challenged our jurisdiction in this proceeding, except as heretofore noted.

Request for Continuance

Although this proceeding was instituted October 20, 1939, more than three years prior to the hearing, the company contends that it was "forced to trial without being afforded an opportunity to prepare its case," and that its motion for a 6-month continuance was improperly denied.² The facts, however, do not support such contention.

Significantly, this continuance was not requested until the closing hour of the hearing, February 2, 1943. It was purportedly sought to enable the company to complete the preparation

¹ Hereinafter sometimes referred to as the "company."

² Company counsel stated that even if the 6-month continuance were granted, a further postponement might be sought.

FEDERAL POWER COMMISSION

of its original cost study, which was commenced in September, 1938. The evidence shows that a proper original cost study could have been completed before the hearing which began November 30, 1942. Indeed, the Commission's staff in substance completed such a study in time for the hearing.

We granted several extensions of time for the filing of the original cost statement due originally October 1, 1940.³ The company obviously had much to gain by delay. Further postponement would have resulted in undue hardship on consumers. The company's attitude confessedly has not been one of coöperation in expediting the hearing, but rather delay. The clear, cold facts amply sustain the denial of continuance.

With the exception of the request for further time to complete its original cost studies, the company does not deny that it has been afforded full opportunity to be heard with respect to the evidence it desired to present. The staff's witnesses were cross-examined at length by counsel for the company, and every opportunity was afforded to present rebuttal evidence. Exhaustive briefs have been submitted by counsel. Upon such record, it is apparent that the company has had a full, fair, and complete hearing.

³ On January 16, 1940, we ordered the company to file its original cost statement by October 1, 1940. At the company's request, the time was extended to July 1, 1941, and again to November 1, 1941. On October 13, 1941, the company applied for a further extension without submitting an estimate of the probable completion date. Thus, it has been in default since November 1, 1941.

⁴ The outstanding capital stock of Empire Gas and Fuel Company (Delaware) has been continuously owned by Cities Service Company, the top holding company. Henry L.

The Interim Order

For reasons which will be fully discussed hereafter, however, we are entering an interim order effecting a substantial reduction in rates, in which certain matters at issue are resolved in favor of the company pending further consideration. It is believed this will provide a basis upon which the company can secure adequate supplies of gas to meet the war emergency.

Property and Operations

The company, a Delaware corporation, upon organization in 1922, acquired by consolidation the natural gas production and transmission properties of several wholly owned subsidiaries of its parent, Empire Gas and Fuel Company (Delaware).⁴ As of November 30, 1926, the company acquired the remainder of such properties and the common stock of American Pipeline Company owned by the parent company.

The properties of Cities Service Gas Company, which include 4,300 miles of main and field lines, are operated as an integrated natural gas pipe-line system, and serve a wide area in northern Oklahoma, eastern Kansas, southern Nebraska, and western Missouri.⁵

Approximately 43 per cent of the

Doherty, founder of the Cities Service system, dominated and controlled the system from 1910 to his decease in 1939.

⁵ Its 1941 sales aggregated 102,241,557 thousand cubic feet, of which 60,108,287 thousand cubic feet were interstate sales for resale, 40,729,291 thousand cubic feet direct sales (chiefly to industrial consumers), and 1,403,979 thousand cubic feet sales made directly from local gas fields. The total cumulative volume of natural gas transported across state lines in 1941 was 164,464,335 thousand cubic feet.

RE CITIES SERVICE GAS COMPANY

company's total gas requirements was produced from its own wells in the Panhandle Gas Field in Texas, and about 56 per cent was purchased in numerous gas fields in Kansas and Oklahoma in 1941.⁶ The gas produced in Texas is transported through a 20-inch main transmission line across the northwest corner of Oklahoma to Wichita, Kansas, where it is commingled with gas secured from the fields of Kansas and Oklahoma.

The company's principal markets embrace the metropolitan areas of Kansas City, St. Joseph, Joplin, and Springfield, Missouri, and Kansas City, Lawrence, Topeka, Leavenworth, Wichita, and Hutchinson, Kansas.

The Rate Base

Exclusion of "Fair Value" Evidence

[1, 2] At the threshold, we are met with the company's contention that the trial examiner improperly excluded evidence of reproduction cost and so-called "fair value" of the properties. Our views as to why such evidence should be excluded have been stated in earlier opinions,⁷ and need not be amplified here. It seems quite apparent that § 6(a) of the Natural Gas Act, 15 USCA § 717e(a), authorizes the ascertainment of the actual legitimate cost of the property of every natural gas company, and only when found necessary for rate-making purposes the ascertainment of the "fair value" of such property. The evidence is clear that actual legitimate

cost of the company's property is accurately ascertainable from the books and records. Approximately 76 per cent of the company's existing property was constructed since November 30, 1926, during years of relatively high prices.⁸

Moreover, the company's estimates of reproduction cost and so-called "fair value" are at best synthetic figures not taken from the books and records. They do not purport to represent actual cost or investment. Upon such record, we find that no necessity was shown to exist for the consideration of evidence of reproduction cost or "fair value" in this proceeding. Additionally, such evidence has been condemned by several members of the present Supreme Court of the United States as unreliable for rate-making purposes.⁹ We

⁸ The Commission's staff presented evidence showing that the actual legitimate cost of gross plant additions (exclusive of leaseholds), from November 30, 1926, to December 31, 1941, was as follows:

1926	\$1,104,477
1927	5,113,075
1928	13,485,321
1929	8,258,118
1930	9,804,339
1931	9,912,578
1932	926,673
1933	570,431
1934	275,883
1935	397,997
1936	1,776,399
1937	2,326,860
1938	953,790
1939	1,256,593
1940	1,606,208
1941	643,436

Total \$58,412,178

Of this total, \$49,109,521 represents property in service at December 31, 1941, according to the staff's evidence.

⁹ See concurring opinion of Justices Black, Douglas and Murphy in *Federal Power Commission v. Natural Gas Pipeline Co.* (1942) 315 US 575, 602-606, 86 L ed 1037, 42 PUR (NS) 129, 62 S Ct 736; dissenting opinion of Mr. Justice Black in *McCart v. Indian-*

⁶ Approximately 1 per cent of the total 1941 requirements was produced by the company from its wells in Kansas and Oklahoma.

⁷ *Detroit v. Panhandle Eastern Pipe Line Co.* (1942) 45 PUR(NS) 203, 208-210; *Re Chicago Dist. Electric Generating Corp.* (1941) 39 PUR(NS) 263, 269-272.

FEDERAL POWER COMMISSION

conclude, therefore, that the trial examiner's exclusion of such evidence was proper.

Actual Legitimate Cost

The staff maintains that the actual legitimate cost of the gas plant in service at December 31, 1941, is \$63,-425,271. Although the company contends that the staff's recommendation is in error, it has not stated what amount is claimed as the cost of the entire gas plant. The company offered no evidence showing the cost of its utility plant, except for natural gas rights and leaseholds and natural gas storage rights and leaseholds, the total cost of which is claimed to be \$2,521,053.

The gas plant in service appearing on the books on December 31, 1941, was \$86,134,828.57. In order to determine the actual legitimate cost of such plant, however, it is clear from the evidence that numerous adjustments are required to be made to such book figures.

Write-up of November 30, 1926

[3] As of November 30, 1926, the company's plant accounts were written up by \$17,440,935. This is conceded by counsel for the company.¹⁰ It clearly appears from the evidence that no part of this amount represented actual legitimate cost or investment. Hence, no part of such

sum can be included in the rate base.

Between November 30, 1926, and December 31, 1941, numerous items of such written-up plant were retired at the inflated book values. The evidence shows that the inflation in the book cost of the properties so retired totaled \$6,647,565. Obviously, this amount must be deducted from the write-up of \$17,440,935 to arrive at the write-up remaining in the plant account at December 31, 1941. After making this deduction there is the sum of \$10,793,370 remaining. This amount we eliminate.

Intangibles

At December 31, 1941, \$6,384,731 was carried in the company's plant account as intangibles. The Commission's staff recommended that \$10,-543 of this sum be allowed as intangibles, that \$13,328 be reclassified as general construction expenditures and allowed, and that the remaining amount of \$6,360,860 be disallowed. The sum of \$6,360,860 represents:

Intangibles carried forward from the books of various affiliated predecessors in 1922 and 1926 ..	\$7,553,233
Operating expenses capitalized on Pampa-Wichita line in 1929 ..	540,000
Expenses of a natural gas survey in 1932 ..	34,105
Subsequent adjustments recorded by the company ..	(1,766,478)

Total as of December 31, 1941 \$6,360,860

We shall discuss these items in the sequence shown above.

apolis Water Co. (1938) 302 US 419, 437, 82 L ed 336, 21 PUR(NS) 465, 58 S Ct 324; concurring opinion of Mr. Justice Frankfurter in *Driscoll v. Edison Light & P. Co.* (1939) 307 US 104, 122, 123, 83 L ed 1134, 28 PUR(NS) 65, 59 S Ct 715; Mr. Chief Justice Stone in *Federal Power Commission v. Natural Gas Pipeline Co.* *supra*, 315 US at p. 588; and his dissenting opinion in *West v. Chesapeake & P. Teleph. Co.* (1935) 295 US 662, 689, 79 L ed 1640, 8 PUR(NS) 433, 55 S Ct 894; Mr. Justice Jackson, "The Struggle for Judicial Supremacy" (Knopf 1941) pp. 51-53. 50 PUR(NS)

¹⁰ At the hearing, counsel for the company stated:

"If the Commission please, I have been very tolerant in letting this testimony go on, but it seems to me we are wasting a lot of time. There isn't any question about the fact that the company employed Sanderson & Porter to revalue the property—

"— They did. And following that the company did write up its books \$17,000,000. Now, all of this, as to Why? is immaterial. The write-up is there and we admit it."

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"Intangibles" of Affiliated Predecessors

[4] In 1922 and 1926, the company recorded in its plant account the so-called "intangibles" in the amount of \$7,553,233 which theretofore had been carried on the books of several affiliated predecessors whose properties were acquired in those years. These "intangible" items are summarized in the margin.¹¹ The staff submitted detailed evidence showing that no part of this amount represented actual legitimate cost. The company, with the single exception of a comparatively minor amount capitalized by The Marnet Mining Company as litigation costs in 1911 and 1912, offered no evidence concerning these intangibles, and makes no claim for their inclusion in the

rate base as actual legitimate cost. We allow the controverted item of \$46,565. We find that the other items do not represent actual legitimate cost of plant in service and disallow them.

Operating Expenses Capitalized on Pampa-Wichita Line

[5] Cities Service Gas Pipeline Company, an affiliated predecessor, in 1927 constructed a transmission pipe line from Pampa, in the Texas Panhandle Gas Field, to Wichita, Kansas, which line was completed and placed in service on December 31, 1927. Cities Service Gas Company thereafter operated this line as a part of its system under a lease agreement pursuant to which it paid all operating expenses and interest. In 1928, the first year of its operation, all operating expenses of the line were charged to the operating expense accounts of Cities Service Gas Company. However, in 1929, that company capitalized in its intangible account \$540,000,¹² representing 50 per cent of such 1928 operating expenses on the theory that this amount represented costs attributable to the unused capacity of the pipe line during 1928.

These operating expenses are not actual legitimate cost of property devoted to the public service. They purport to represent the cost of carrying unused pipe-line capacity during 1928, after the construction period had ended. The basis of the company's claim is that these amounts represent past losses in operating this particular line. But the Supreme Court of the United States has held that past losses are not properly in-

¹¹ Write-up recorded by Wichita Pipe Line Company in 1914 as contracts, franchises, and other property rights	\$4,000,000
Amount recorded by Quapaw Gas Company for gas rights and leases which were depleted by 1914	2,699,539
Write-up recorded by Kansas-Oklahoma Gas Company in 1925	500,000
Litigation expenses incurred in testing the constitutionality of statute prohibiting exportation of natural gas from Oklahoma, capitalized by The Marnet Mining Company in 1911 and 1912	46,565
Amount recorded in 1926 by the company for property in Miami Mine Field which was not received from affiliated Consumers Gas Company	43,337
Organization expenses of The Marnet Mining Company (Dissolved) incurred in 1910 and 1911	5,316
Organization expenses of Kansas-Oklahoma Gas Company (Dissolved) incurred in 1925	5,207
Receivership expenses and Federal income taxes of Kansas Natural Gas Company capitalized in 1925	193,029
Unidentified leasehold development costs transferred by parent company in 1926	60,240
Total	\$7,553,233

¹² The same amount was credited to surplus.

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cludible in the rate base,¹³ and recently has sustained this Commission's disallowance of a similar claim.¹⁴

To allow these past operating expenses as a part of the rate base would place an undue burden on present ratepayers. The evidence shows that Cities Service Gas Company recouped these expenses in its total operations in 1928, a year in which the company earned over 19 per cent on the net investment in property in service, including working capital. In the circumstances, we are compelled to disallow this item.

Expense of Natural Gas Survey

[6] The staff urges the disallowance of \$34,105 capitalized by the company in its intangible account in 1932, representing the cost of making a survey of the natural-gas resources of the United States to assist in determining future policy with respect to the acquisition of gas acreage. The primary object was to determine whether the company could depend on gas purchases for the major portion of its supply or should acquire additional acreage. After the survey, the company added to its existing acreage in the Hugoton Field. Company witnesses proposed to include this amount as a part of the cost of its Hugoton leases. We feel that the company's proposal is reasonable. We therefore include this sum in the cost of its natural gas rights and leaseholds.

¹³ Galveston Electric Co. v. Galveston, 258 US 388, 66 L ed 678, PUR1922D 159, 42 S Ct 351.

¹⁴ Federal Power Commission v. Natural Gas Pipeline Co. *supra*, footnote 9, 315 US at pp. 588-592.

¹⁵ The individual intangible items have been herein discussed in terms of the gross amounts originally recorded. Due to the company's

Conclusion As to Intangibles

Subsequent to the recording of the above-discussed intangibles in its plant account, the company voluntarily made a number of adjustments thereto which had the net effect of reducing the intangible account by \$1,766,478, leaving \$6,384,731 on the books at December 31, 1941.

To summarize our conclusions with respect to the intangible account, we find that of the \$6,384,731 remaining in the plant account at December 31, 1941, \$6,280,190¹⁶ should be disallowed as not representing actual legitimate cost of property devoted to the public service, and the balance of \$104,541 should be allowed.

Leaseholds and Natural Gas Rights

[7] The amount appearing in the company's plant account for natural-gas rights and leaseholds in service and held for future use, at December 31, 1941, was \$2,207,758. The company contends that the original cost of its acreage used and useful, consisting of approximately 113,102 acres in the Texas Panhandle Field, 182,182 acres in the Hugoton Field in Oklahoma and Kansas, and 424,969 acres located in other parts of Oklahoma and Kansas, is \$2,174,122.¹⁶ The Commission's staff reclassified certain of this acreage, and recommended that \$481,727 be included in the rate base as the actual legitimate

own reduction of \$1,766,478 in the total intangible account (of which reduction \$249,058 properly applies to tangible plant instead of "intangibles"), the total disallowance of \$6,280,190 is less than the aggregate of the individual items hereinbefore found not to represent actual legitimate cost.

¹⁶ This sum includes \$34,105 for the natural gas survey heretofore discussed and allowed.

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cost of leaseholds and rights in service at December 31, 1941.¹⁷

We accept for the purpose of our interim order the company's classification of natural gas rights and leaseholds, thereby allowing in the rate base all acreage which the company claims to be used and useful in rendering gas service, including the acreage in the Hugoton Gas Field. We find from the evidence, however, that \$1,644,349 of the \$2,174,122 claimed for this acreage should be included in the rate base as actual legitimate cost, and that the balance of \$529,773, consisting of past operating expenses, cost of abandoned leases, and "interest" improperly capitalized, should not be allowed. The facts concerning the amount disallowed may be briefly summarized as follows:

A substantial part of the company's leases in the Texas Panhandle Gas Field was originally acquired by Empire Gas & Fuel Company (Maine), an affiliate of Cities Service Gas Company. In 1928, these leases were conveyed to another affiliate, Cities Service Gas Pipeline Company, which in turn transferred the same to Cities Service Gas Company in 1935. Incidental to the 1928 transfer, the following past expenses of the Empire Company were added to plant account: (a) \$443,235 of delay rental expense on leases previously abandoned, (b) \$43,018 of delay rental expense on leases transferred, and (c) \$79,796 of "interest" not theretofore capitalized, a total of \$566,049. In addition, plant transferred was fur-

ther inflated by \$69,397, representing bonus costs and rentals applicable to leases abandoned by the Empire Company. Due to subsequent retirements, \$529,773 of these charges remained on the books of Cities Service Gas Company at December 31, 1941.

It would be improper to include these items in the rate base. More than \$512,000 of such charges relate to acreage abandoned by the predecessor, Empire Company. The delay rentals were properly treated as operating expenses by the affiliated company which incurred them. To include such past operating expenses in the rate base would not only result in duplication, but would place a continuing burden upon the ratepayers. The Cities Service system cannot be permitted to have these charges twice, both as operating expense and as capital. Nor has any basis been established in the record for including the amount belatedly capitalized as "interest." No support therefor appears on the books and records, and no evidence was offered which would warrant its inclusion in the rate base. It is, therefore, not allowed in the rate base.

Net deductions of \$4,570 from the book cost of leaseholds, proposed by the company's witness, are approved.

Doherty Company Fees Capitalized

[8, 9] During 1923 to 1937, inclusive, the company and its affiliated predecessors capitalized \$2,376,049 of "engineering fees" paid upstream to Henry L. Doherty & Company and Cities Service Company (the top holding company).¹⁸ The fees were

¹⁷ The staff indicated the actual legitimate cost of leaseholds and rights held for future use to be \$420,008, but did not include this amount in its recommended rate base.

¹⁸ During the period 1923-1935, the charges were paid to Henry L. Doherty & Company, and during the 1935-1937 period to Cities

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computed by Cities Service Gas Company at the rate of 5 per cent on its major construction jobs and paid without invoices. Of this amount, \$2,059,543 remained on the books at December 31, 1941, due to retirements. Henry L. Doherty, during the 1923-1937 period, controlled Cities Service Company and was the sole proprietor of Henry L. Doherty & Company.

Although notified by the Commission on December 18, 1941, that the cost of such services should be supported by bona fide records, the company failed to submit any evidence of cost. Instead, it offered evidence showing that the company would have paid a greater amount if the fees had been computed on the basis of a standard form of contract of another engineering firm.

It is quite clear that the Doherty fees were not based upon the cost of rendering such services, but were calculated upon arbitrary percentages.¹⁹ Where, as here, the dealings were not at arm's length, it was incumbent upon the company to show the reasonable cost of rendering the service and the profits exacted by the holding company. Ratepayers are not required to pay a return on such profits.²⁰ In view of the company's failure and refusal to sustain this burden of proof, we would be justified in excluding these fees from the rate base.

However, the record shows that some services were rendered and costs

incurred, although the amount thereof is not revealed. It is therefore proposed to include the full amount of such fees for the purpose of this interim order. Before entering a final order, the company will be given a further opportunity to establish the actual legitimate cost of the services rendered. Only the amount fully supported by competent evidence will thereafter be allowed. Our final action on this item therefore will be reserved.

Deficit Capitalized by Kansas Natural Gas Company

[10] On November 30, 1926, when Cities Service Gas Company acquired the physical properties of Kansas Natural Gas Company, an affiliate, it included in plant account the deficit of that company amounting to \$3,367,000, which had been capitalized on January 1, 1921. This peculiar accounting appears to have been the result of an effort to reflect on the books some approximation of the original cost of the property acquired by Kansas Natural Gas Company from its affiliate, The Kansas City Pipe Line Company. The Commission's staff, from an examination and analysis of the books and records of The Kansas City Pipe Line Company, found the original cost of the properties involved to be \$3,893,031, and recommended that this sum be included, as of November 30, 1926, in lieu of amount recorded on the books of Cities Service Gas Company for

Service Company. In addition to "engineering fees," Cities Service Gas Company and one of its affiliated predecessors paid during 1926-1937 to these companies \$789,891 for so-called "management fees." Such "management fees" were charged to operating expenses in those years, and therefore are not in issue here.

¹⁹ See *Re Cities Service Co.* File No. 59-46,

Opinion of Securities and Exchange Commission dated August 5, 1942.

²⁰ *Western Distributing Co. v. Kansas Pub. Service Commission*, 285 US 119, 76 L ed 655, PUR1932B 236, 52 S Ct 283; *Smith v. Illinois Bell Teleph. Co.* 282 US 133, 75 L ed 255, PUR1931A 1, 51 S Ct 65.

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this property.²¹ The company has raised no objection to this liberal and obviously necessary adjustment. It is approved.

Unrecorded Retirements

[11] In 1924, 1925, and 1926, certain affiliated predecessors of the company recorded the retirement of compressor stations which had been abandoned or otherwise removed from service. When the detailed plant records of the company were set up as of November 30, 1926, the costs applicable to these retired stations, totaling \$501,559, were erroneously reinstated in the plant accounts. The Commission's staff properly eliminated this amount in arriving at the actual legitimate cost of property in service, and made a corresponding reduction in the depreciation reserve requirement, leaving the recommended rate base unaffected by the adjustment.

The company admits that this property was retired from service, but contends that the cost appearing on its books is not the original cost. It failed, however, to offer evidence of the cost claimed. We approve the staff's adjustment as reasonable and proper.

Plant Not in Service

[12] The company and the Commission's staff agreed that certain

²¹ The plant account of Cities Service Gas Company at November 30, 1926, carried this property at \$3,747,512, consisting of the \$3,367,000 deficit and \$380,512 paid for the common stock of The Kansas City Pipe Line Company. The sum of \$3,747,512 is before the write-up, as of November 30, 1926, hereinbefore discussed.

²² The staff recommended that the reserve requirement should be reduced by only \$318,266 on account of the property not used or useful.

items of property were not in service on December 31, 1941. The staff offered evidence showing that the cost of this property, \$1,185,349, as shown by the company's plant ledgers, should be excluded in arriving at the actual legitimate cost of property in service at that date. The company, while it agreed that this property was not in service, denied that the sum of \$1,185,349 represents original cost. However, it presented no evidence showing the amount claimed as such original cost. We accept the staff's recommendation in this regard. Since this property has been retired, the full cost of the depreciable property, \$1,164,260, should be deducted from the depreciation reserve requirement (accrued depreciation).²³

Other Items Deducted from Plant Account

The staff offered evidence recommending the exclusion from plant account of the five items set forth in the margin,²³ totaling \$455,079. The company did not dispute this disposition. We find that these items should be excluded as not representing actual legitimate cost of property in service.

²³ Interest capitalized by Wichita Pipe Line Company after beginning of commercial operations	\$194,744
So-called value of contracts and contract rights acquired by Wichita Pipe Line Company from S. H. Hale in 1914	117,068
Organization expenses of Wichita Pipe Line Company (Dissolved) incurred in 1914 and 1915	20,653
Costs representing dry holes, a depleted well and wells located in Arkansas, transferred from parent company. No property received ..	108,517
Interest capitalized on lines from Leavenworth, Kansas, to St. Joseph, Missouri, and from Fort Scott, to Petrolia, Kansas	14,097
Total	\$455,079

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Other Items Added to Plant Account

[13] We agree with the company's contention that \$78,153 should be added to the cost of natural gas storage leaseholds appearing in the plant account. In addition, as recommended by the staff, we shall restore to the plant account items totaling \$412,604 consisting of proceeds derived from the purchase and sale of securities, and depreciation, which have been erroneously deducted by the company from such plant account.

It appears from the evidence that the books of Cities Service Gas Company may not reflect the full investment made by the Cities Service system in the property acquired from Kansas Pipe Line and Gas Company. We shall accept, for the purpose of the interim order only, as the actual legitimate cost of such property, the amount of \$205,499 claimed by the company.

Summary of Actual Legitimate Cost

To summarize, we conclude from the evidence that the actual legitimate cost of the property used and useful at December 31, 1941, was \$66,977,-654, exclusive of construction work in progress.

In arriving at this conclusion, we have fully considered the company's contentions that the staff (1) failed to reflect the original cost of operating units or systems acquired which were constructed by parties other than the company; (2) did not make corrections for so-called "accounting errors"; and (3) erroneously determined the cost of units of property in those instances where it was necessary to deal with property units, e.g., removing inflation from separate items of property or determining the

cost of items retired. Here again, the company produced no evidence showing what effect these matters would produce on the total rate base. Indeed, the company witness, who advanced these criticisms of the staff's method, admitted on cross-examination that he had not made a complete analysis of the accounts and that until his audit was completed he could not know whether the cost found by the staff was more or less in the aggregate than the original cost as he interprets it.

The contention that the staff did not properly determine the original cost of operating units or systems in accordance with our Uniform System of Accounts is clearly untenable. The evidence discloses and we have no hesitancy in saying that the staff carefully prepared the studies and exhibits used in this proceeding; its method of determining the actual legitimate cost was a sound and proper one. We have included in the rate base every dollar actually invested by the company and its affiliates in the property devoted to public service.

As to the claim that errors were made in determining the cost of certain individual property units, suffice it to say that the staff used the company's own determination of the cost of such units appearing on the books which for years have formed the basis of reports to its security holders and the tax authorities. The evidence is clear that this method is accepted as standard accounting practice in the industry and here found to be reasonable.

[14] The allegation that "accounting errors" were committed by the

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staff's accountants, we find, upon analysis of the evidence, represents nothing more than a criticism of the staff's refusal to include in the plant accounts past operating expenses, and interest which the company had in the past elected not to capitalize, and to restate the cost of pipe at prices differing from those now appearing in the plant accounts.²⁴ Obviously, these are not accounting errors. Here is simply an attempt by the company to impeach its own books and records, kept in pursuance of a deliberate policy prescribed by the management.

Existing Depreciation and Depletion

The Commission's staff recommended that \$22,429,031 be deducted from the actual legitimate cost for depreciation and depletion. The company offered no evidence showing any amount claimed as the existing depreciation and depletion in its properties. Its only witness on depreciation gave his approval to the straight-line service life method of determining accrued depreciation. Furthermore, he found no fault with the service lives of the property determined by the staff's engineer. His testimony consisted principally of a criticism of the staff's depreciation rates which were based upon those service lives. But he did not state what rates would be proper for use in this case. Indeed, counsel for the company stated that the results obtained by the staff may be too high, too low, or even correct.

We have held that where reason-

²⁴ As to the latter contention, it is observed that if the pipe prices were restated at higher cost, as suggested, the depreciation reserve requirement would be increased correspondingly. Thus, the rate base would remain substantially the same.

able and proper depletion and depreciation accounting has been observed, the resulting reserve is the best measure of the depletion and depreciation existing in the property, i.e., the accumulated cost of the property which has been consumed in service.²⁵ However, the book reserves of the company were accumulated in such manner that they cannot be accepted as accurately measuring the accrued depletion and depreciation in the property. Nor do such book reserves accurately reflect the amounts recovered for depletion and depreciation through past operating expenses.

A few examples will suffice to reveal the character of the depreciation accounting. Some of the affiliated predecessors transferred no reserves while others reduced their reserves for losses which were in no way related to property retirements. A credit arising from indebtedness forgiven by the parent company was added to the book reserves at November 30, 1926. During the period November 30, 1926, to December 31, 1941, depreciation was computed by applying annual rates to written-up plant balances. Similarly, the reserves were charged with property retirements priced at amounts which admittedly included write-ups. The company's book reserves were reduced by substantial charges for abandoned lease and dry hole costs. As a result of a restatement of depreciation and depletion in 1932, the company reduced its book reserves by \$4,339,321 and increased its surplus by a like amount.

The Commission's staff presented a complete depreciation and depletion

²⁵ *Detroit v. Panhandle Eastern Pipe Line Co.* (1942) 45 PUR(NS) 203.

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reserve requirement study, i.e., a computation of the reserves which should have been accrued had the company properly recorded in reserves the accumulated cost of the property consumed in service. A qualified staff engineer inspected the company's properties, analyzed its past experience and that of its predecessors, and estimated the over-all service lives of the property by classes. He considered service life data on other pipe lines, and treated realistically both the physical and functional aspects of depreciation.

The fact is undisputed that the life of the company's gas reserves will extend beyond the average physical life of its pipe lines. However, the ultimate life of the project is inherently limited because it is a wasting-asset business.

[15] The depreciation rates recommended by the staff in computing both the annual depreciation expense and the reserve requirement (accrued depreciation) were derived from the average service lives of the various classes of property owned by the Company. The equitable principle that the accrued depreciation at any given time should be harmonized with the related annual expenses for depreciation was recognized by the staff and appropriately applied. Stated another way, the accrued depreciation is the sum of the proper annual depreciation expenses from the beginning of the property less the total net cost of property retired. The method used by the staff conforms to our previous decisions. Under that method the sum required annually to reimburse the company for the cost of property consumed in whole or in

part in rendering service is determined and included in operating expenses, with the result that the company is assured of being fully reimbursed for its capital investment by the end of the life of the property.

[16] Although the company contended that the staff's depreciation rates were incorrect, we find that such rates substantially coincided with those used by the company on its books. The evidence shows that these rates reflect the company's own depreciation experience. We recognize that the determination of depreciation is not an exact science. Depreciation rates are subject to adjustment in the light of actual experience. But there is comparatively little effect on the total cost of service (including return) whether a longer or shorter service life is used under the method which we apply. In other words, the combined depreciation and return allowed to the company remain substantially unchanged by increasing or decreasing the depreciation rates so long as consistency is maintained in computing the annual expense and the reserve requirement. We consider it fundamental that annual depreciation expense and accrued depreciation are two aspects of the same phenomenon which require consistent treatment. If this principle is followed, both the company and the ratepayer will be protected.

The company contends that the staff erred in restoring to the depreciation reserve \$2,200,000 accrued by The Kansas City Pipe Line Company, an affiliated predecessor. During 1908 to 1912, inclusive, The Kansas City Pipe Line Company provided annual depreciation accruals in

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amounts which equaled the principal amount of its first mortgage bonds redeemed. It provided no accruals for depreciation between 1905 and 1908 nor between 1912 and 1921. When Kansas Natural Gas Company recorded the acquisition of the properties of The Kansas City Pipe Line Company as of January 1, 1921, it failed to reflect on its books \$2,200,000 accumulated in the depreciation reserve of The Kansas City Pipe Line Company. As a consequence, this amount was never recorded in the depreciation reserve of the Cities Service Gas Company. The contention is made that such provisions were no proper measure of depreciation.

The staff checked the accuracy and propriety of the company's book reserves at November 30, 1926, as corrected to reflect the proper accounting for depreciation and depletion actually accumulated from past earnings, by making an independent reserve requirement study as of the same date. This study revealed that such book reserves, as adjusted to include, among other things, the \$2,200,000 above referred to, substantially reflected the accrued depreciation and depletion existing in the properties at that date. The staff's treatment of this matter is therefore approved.

The company contends in its brief that the staff's depreciation requirement was overstated by reason of the fact that retirement work in progress in the amount of \$219,162 was not deducted therefrom. Company counsel did not challenge this item during the hearing. However, since the evidence does not fully disclose the details of this item, we will deduct the sum of \$219,162 from the staff's reserve requirement for the purpose

of an interim reduction in rates and reserve disposition of this amount until a final order.

We have already adverted to our conclusion that the staff's depreciation reserve requirement should also be reduced by \$1,164,260 in order to reflect the depreciation applicable to depreciable property not in service, rather than by only \$318,266 as recommended by the staff.

Two other deviations from the accrued depreciation obtained by the staff must be taken into account. The reserve for depletion must be increased by \$43,907 as a result of increases allowed in the actual legitimate cost of leaseholds over the staff's recommended cost. Furthermore, the staff's reserve for depreciation and depletion must be increased by \$396,667 for the purpose of an interim reduction because of our inclusion of the 5 per cent engineering fees of Doherty & Company in actual legitimate cost; final disposition being reserved.

Upon consideration of the evidence, we conclude that the actual existing depreciation and depletion in the properties at December 31, 1941, was \$21,804,449, as follows:

Depletion ²⁶	\$1,024,891
Depreciation ²⁷	20,779,558

Total Reserve Requirement .. \$21,804,449

It is clear from the evidence that the company has recovered this reserve through past operations. Indeed, at least \$25,115,910, or \$3,311,461 more, has been recouped through

²⁶ Relates to gas wells and producing leases and was computed by unit-of-production method. (Unit consists of 1,000 cubic feet of gas.) This method has not been challenged.

²⁷ Computed by straight-line service life method.

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charges to depreciation expense prior to December 31, 1941.²⁸

The reserve requirement of \$21,-804,449 will be deducted from actual legitimate cost in determining the rate base for the purpose of an interim order reducing rates in this proceeding.

Construction Work in Progress

The rate base recommended by the Commission's staff included \$346,214 for property classified on the books at December 31, 1941, as "construction work in progress," but which was in fact completed at that date. Due to the company's failure to maintain its account for construction work in progress in conformity with the Commission's Uniform System of Accounts and to clear completed construction from such account, the staff's study did not reveal additional amounts invested in construction which had been completed prior to December 31, 1941. The company claims that an additional \$512,720 should be included in the rate base for

expenditures applicable to such completed construction. For the purpose of our interim order, we allow this additional sum.

Moreover, we include the claimed cost of \$717,423 for the transmission line to the Cement Gas Field which was virtually completed and ready for service at December 31, 1941. The evidence shows that this line was required to maintain existing gas service.

The total of the foregoing items to be included in the rate base as "construction work in progress" is \$1,576,357.

Working Capital Requirements

There is no dispute with respect to the staff's allowance for materials and supplies in the amount of \$1,302,078.²⁹

The staff recommends a cash-working capital allowance of \$269,116, representing one-eighth (forty-five days) of such of the company's expenses, \$2,152,931, for the year 1941, as required working capital.³⁰ The company specifically claims an additional \$883,950 for cash-working

²⁸ Reserves per books, December 31, 1941 \$15,013,060
Add:

Inflation included in property retirements	6,569,600
Restatement of reserves in 1932	4,339,321
Depreciation credited to plant account instead of reserve ..	2,446,754
Losses and expenses not associated with property retirements charged to reserves ..	1,179,677

Deduct:

Elimination of credit to reserve for amount of debt forgiven by parent company	(2,512,901)
Unrecorded retirements	(501,559)
Write-up of units purchased ..	(34,620)
Reserves applicable to property not in use	(1,164,260)
Retirement work in progress ..	(219,162)

Total reserves, based on depreciation and depletion previously charged to expense, not less than \$25,115,910

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²⁹ This sum represents the average monthly balance of the Materials and Supplies Account, per books, in 1941. Such account includes approximately \$750,000 erroneously added thereto by the company in 1939 to restate second-hand salvage items at purported original cost. Inasmuch as this increase is offset by an equivalent addition to the depreciation reserve requirement, and hence has no effect on the rate base, we accept the company's accounting in this respect for the purpose of our interim rate order.

³⁰ The sum of \$2,152,931 includes all operating expenses and exploration and development costs recommended by the staff, except purchased gas expense, gas well royalties, and abandoned lease costs. The evidence shows that these excepted items require no cash outlay between the time they are incurred and the time revenues are collected.

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capital, consisting of the following items:

Prepaid expenses	\$120,000
Gas packed in lines	10,250
Cash for reclaims	7,802
Prepaid expenses for storage gas ..	117,299
Minimum bank balances	351,800
Regulatory Commission expense	276,799
Total	\$883,950

[17] The company also presented a calculation showing that by taking the 3-year average excess of current assets over noninterest bearing current liabilities at December 31st of each of the years 1939, 1940, and 1941, the indicated working capital requirement would be \$3,103,493. We reject this method of computing working capital requirements as unsound and inherently fallacious for rate-making purposes. By this device there would automatically be included in the working capital allowance such items as surplus cash on hand and cash held for payment of dividends, interest, and debt retirement.

Upon careful consideration of the evidence, we conclude that in addition to the amount recommended by the staff, there should be allowed the full amount claimed by the company for prepaid expenses, gas packed in lines, and cash for reclaims, totaling \$138,052. We also allow \$87,646 for prepaid expenses for storage gas,³¹ and \$21,302 for additional operating expenses, including \$16,000 or one-eighth of the amount which remains to be paid (\$128,000) for regulatory Commission expense.

[18] We have made no separate provision for minimum bank balances because the evidence shows that taxes are, in effect, collected from the cus-

tomers in advance of the date when such taxes are paid. Thus, the company has the use of funds representing tax accruals during the period between collections from customers and payments to taxing authorities. Manifestly, gas consumers should not be compelled to pay a return on cash working capital which they furnish. The evidence shows that the cash working capital available through taxes, after the reduction in revenues ordered in this proceeding, will provide more than the amount of \$351,800 cash claimed by the company for minimum bank balances.

To summarize, we include in the rate base, for the purpose of this proceeding, the total working capital requirement of \$1,818,194, consisting of \$1,302,078 for materials and supplies and \$516,116 for cash-working capital. The evidence does not support additional amounts claimed by the company as being properly allowable for working capital; such claims are disallowed.

Conclusions As to Rate Base

Our conclusions with respect to the rate base may be summarized as follows:

Actual legitimate cost:	
Natural gas rights and leaseholds	\$1,644,349
Storage gas rights and leaseholds	346,931
Transmission and gathering lines, compressor stations, gas wells and all other property in service	64,986,374
Total actual legitimate cost	\$66,977,654
Less existing depreciation and depletion	21,804,449
Total investment in plant in service	\$45,173,205
Construction work in progress ..	1,576,357
Working capital	1,818,194
Rate base	\$48,567,756
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³¹ Computed at the average cost of gas purchased and produced, rather than at the cost of purchased gas as suggested by the company.

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We find from the record that, for the purpose of our interim rate order, the sum of \$48,567,756 is the reasonable rate base for Cities Service Gas Company as an assembled whole and an established natural gas utility.

Rate of Return

[19, 20] The company did not offer any evidence on the subject of fair rate of return. However, the Commission's staff presented comprehensive evidence dealing fully with those matters which courts and Commissions have considered pertinent, including the financial history of the company, the trend and current cost of money, investors' appraisal of the natural gas industry, comparative risk data, stability of the natural gas industry, and yields on utility securities.

The undisputed evidence shows that interest rates are now at about the lowest levels in the history of the country and that natural gas companies generally, including this company, have benefited from this condition. It is also apparent that natural gas and other utilities have relatively greater stability of earnings than industrial and railroad enterprises. Moreover, it is well settled that a utility "has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures."³²

The record shows that the company is a well-established natural gas utility with a high earnings history achieved after ample provisions for

depreciation and depletion. Its markets, served principally by affiliated distribution companies, are well established. In recent years, the company has negotiated gas purchase contracts in several gas fields which required vendors to advance funds for construction of lines to their wells, at an interest rate of 3 per cent. It is clear from the evidence that this company has no greater risks than other large natural gas companies, generally.

The company has no preferred stock. Its 5½ per cent debentures outstanding in the principal amount of \$8,000,000 are owned by Cities Service Company (the top holding company). Its common stock is highly watered as a result of property write-ups authorized and engineered by the management. In the circumstances, we refuse to close our eyes and conclude that a fair rate of return for Cities Service Gas Company should be increased to the detriment of consumers in order to perpetuate the company's inflated capital structure. We consider it elementary that consumers should not be required to pay higher rates because of such mismanagement.

During the 16-year period ended November 30, 1942, the company paid cash dividends upstream in the sum of \$45,742,220 and issued a stock dividend of \$5,000,000. Between January 1, 1931 and November 30, 1942, the combined funded debt of the company and Cities Service Gas Pipeline Company, which it absorbed in 1935, was reduced by \$13,566,100. Since November 30, 1926, the company has earned an average return of approximately 14 per cent on the investment in the property. In the low-

³² Bluefield Water Works & Improv. Co. v. West Virginia Pub. Service Commission, 262 US 679, 692, 67 L ed 1176, PUR1923D 11, 43 S Ct 675.

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est depression year, it enjoyed a return of approximately 10 per cent.

We conclude, upon careful consideration of the evidence in the light of the principles enunciated by the Supreme Court of the United States, that 6½ per cent is a fair and liberal annual rate of return for the property of Cities Service Gas Company devoted to the service subject to our jurisdiction. This conclusion is in harmony with recent decisions of the courts and Commissions relating to natural gas utilities.³³

Operating Revenues and Deductions

There is no dispute with respect to the volume of gas sold or the revenues received by the company. The operating revenues for 1941, the latest calendar year for which complete data are before us, were \$17,360,930.³⁴

The sum of the 1941 operating revenue deductions and exploration and development costs, per books, was \$10,625,749. The staff recommended adjustments which would have the effect of reducing this total by \$1,337,913, exclusive of income tax savings. We conclude that, while some of the staff's adjustments are unjustified, certain of them, nevertheless, must be applied to the book figures for 1941 in order to obtain reasonable and proper expenses for the purpose of this proceeding. We

shall discuss briefly such required adjustments.

Excess Profits from Natural Gasoline Operations

[21, 22] Cities Service Oil Company, a wholly owned subsidiary of Cities Service Gas Company's parent, Empire Gas and Fuel Company (Delaware), extracts gasoline, butane, and propane from the natural gas of Cities Service Gas Company. This operation is profitable and renders the natural gas more readily marketable and transportable. The extraction of gasoline and other residuals reduces the heat content and consumes a certain volume of the natural gas. Accordingly, the gas consumers are entitled to a fair proportion of the net earnings derived from the processing operation.

The sums actually received by Cities Service Gas Company from its affiliate for the products extracted were computed at a contract rate of 7 cents per thousand cubic feet of 1,100 BTU equivalent gas for the loss in heat value resulting from the extraction. Cities Service Gas Company records these sums on its books as operating revenue.

The basis of settlement between these two affiliates, of course, does not preclude us from inquiring into the reasonableness of the arrangement and the cost of the processing done by Cities Service Oil Company.³⁵

³³ Federal Power Commission v. Natural Gas Pipeline Co. (1942) 315 US 575, 596, 86 L ed 1037, 42 PUR(NS) 129, 62 S Ct 736; Arkansas-Louisiana Gas Co. v. Texarkana (1938) 96 F(2d) 179, 188, 24 PUR(NS) 267; Peoples Gas Light & Coke Co. v. Slattery (1939) 373 Ill 31, 31 PUR(NS) 193, 25 NE (2d) 482, 501; East Ohio Gas Co. v. Cleveland (Ohio 1939) 27 PUR(NS) 387, 412, aff. (1940) 137 Ohio St 225, 35 PUR(NS) 158, 28 NE(2d) 599, 612; Re Montana-Da-

kota Utilities Co. (Mont 1940) 32 PUR(NS) 121, 128; Public Utility Commission v. Peoples Nat. Gas Co. (1942) 43 PUR(NS) 82, 115.

³⁴ Includes gas service revenues of \$17,239,148 and rents and other gas revenues of \$121,782.

³⁵ Smith v. Illinois Bell Teleph. Co. 282 US 133, 152, 153, 75 L ed 255, PUR1931A 1, 51 S Ct 65; Western Distributing Co. v. Kansas Pub. Service Commission, 285 US 119, 124,

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We held in the Hope Natural Gas Company Case ³⁸ that the excess profits of the affiliated company above the cost of processing the utility's gas, including a fair return on the investment in the property devoted thereto, was a proper credit to the natural gas utility.

The uncontradicted evidence shows that the affiliated Cities Service Oil Company has had the following investment in plant and necessary working capital devoted to processing the natural gas of Cities Service Gas Company:

	1939	1940	1941
Gross plant investment	\$1,016,649	\$844,590	\$849,130
Depreciation reserve requirement	279,724	250,696	230,170
Net plant investment	\$736,925	\$593,894	\$618,960
Working capital	23,786	23,786	23,449
Total investment rate base	\$760,711	\$617,680	\$642,409

The staff's determination of the excess profits received by Cities Service Oil Company conforms with the principles enunciated in the Hope Case, *supra*. The Oil Company's net investment in property devoted to the extraction of residuals from the gas

The comparable investment rate base at November 30, 1942, was \$635,623.

For the 3-year period 1939-1941, the excess profits derived from gasoline, butane and propane sales were as shown by the following tabulation:

	1939	1940	1941
Processing revenues	\$576,349	\$442,945	\$741,675
Related expenses	230,813	223,321	220,905
Net processing income	\$345,536	\$219,624	\$520,770
Return at 6½% on rate base	49,446	40,149	41,757
Excess profits	\$296,090	\$179,475	\$479,013

of Cities Service Gas Company was determined, and a 6½ per cent return was allowed on the investment rate base of the Oil Company (consisting of plant and working capital) after all necessary operating expenses including depreciation and taxes. The staff concluded that the excess of the revenues received by the affiliated Oil Company above the total allowance thus computed represented excess profits which should be credited to the natural gas operations of Cities Service Gas Company.

Under the existing arrangement, Cities Service Gas Company received only \$99,620 in 1939, \$107,269 in 1940, and \$119,753 in 1941 from the affiliated Oil Company for the gasoline, butane, and propane extracted.

For the eleven months ended November 30, 1942, the excess profits from the gasoline, butane, and propane sales were \$479,718, of which Cities Service Gas Company received only \$122,098. The excess profits for the comparable 11-month period in 1941 were \$408,614. Thus, the

76 L ed 655, PUR1932B 236, 52 S Ct 283; Dayton Power & Light Co. v. Ohio Pub. Utilities Commission, (1934) 292 US 290, 295, 78 L ed 1267, 3 PUR(NS) 279, 54 S Ct 647; Columbus Gas & Fuel Co. v. Ohio Pub. Utilities Commission (NS)

ties Commission (1934) 292 US 398, 400, 78 L ed 1327, 4 PUR(NS) 152, 54 S Ct 763, 91 ALR 1403.

³⁸ Cleveland v. Hope Nat. Gas Co. (Fed PC 1942) 44 PUR(NS) 1, 27, 28.

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excess profits for 1942 were accruing at the rate of approximately 117.4 per cent of the comparable excess profits for 1941, and at that rate the total excess profits for 1942 would amount to approximately \$562,360.

We find that the average annual excess profits for the four years 1939-1942, or the sum of \$380,000, constitutes a fair guide for the future. Accordingly, we conclude that the operating expenses of the Cities Service Gas Company should be credited annually with such sum for the proceeds from products derived from the processing operations.

Gas Well Royalties

In January, 1941, the company paid certain gas-well royalties in the aggregate sum of \$4,790 for gas which was in fact produced in 1940. The expenditures are clearly applicable to 1940 operations notwithstanding the fact that they were entered on the books in 1941. Accordingly, we conclude that this sum does not belong in 1941 expenses.

Regulatory Commission Expense

The company claims the sum of \$1,250,000 for regulatory commission expense, consisting of \$400,000 for rate case expense and \$850,000 for property reclassification (original cost study) expense, to be amortized over a 10-year period at the rate of \$125,000 per year.³⁷ The Commission's staff recommended that no rate case expense be allowed and that not in excess of \$592,000 for property reclassification expense be amortized over a 10-year period.

³⁷ The company's operating expenses, per books, for 1941, included \$67,890 for rate case expense, and \$208,909 for property reclassification expense.

The staff submitted evidence showing that the reclassification study required by the Commission could have been prepared and completed with an expenditure of not more than \$592,000, and that the sums expended to date by the company for these items have already been fully recouped from the consumers through past charges to operating expenses during years when revenues yielded annual returns far in excess of 6½ per cent on its investment in the property.

We have grave doubts concerning the propriety of including the amounts claimed by the company in future operating expenses. The evidence is convincing that the company has been improvident in its expenditures on the reclassification studies which, after nearly five years, are yet not completed. Moreover, the company failed and refused to adduce in the hearing pertinent supporting details with respect to certain of its claimed regulatory Commission expenses, although requested by the Commission's staff to do so.

However, for the purposes of our interim order only, we shall allow the amount of \$125,000 per year claimed by the company, and shall afford to the company, before the entry of a final order, a further opportunity to support and justify the amount claimed. Final action on this item is, therefore, reserved.

Annual Depreciation and Depletion

[23, 24] The company's books reflect depreciation accruals computed by the use of annual rates on a straight-line basis, and depletion calculated on the basis of exhaustion of

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gas reserves.³⁸ The property base used for computing these accruals included the write-ups and other improper items which we have excluded from the rate base. Consequently, the book accruals reflected a concomitant amount of such inflation. Obviously, it is improper to base depreciation and depletion expenses for rate-making purposes on written-up plant accounts, thereby overstating the amount required for such expense. Condonation of such action would be inconsistent with the statement of Mr. Chief Justice Stone in the Natural Gas Pipeline Company Case³⁹ that:

"The Constitution does not require that the owner who embarks in a wasting-asset business of limited life shall receive at the end more than he has put into it."

The staff based the annual allowance for depreciation expense on the actual legitimate cost of the property in service, employing substantially the same annual rates as those used by the company on its books, and computed depletion of the investment in gas wells and producing leases by the unit-of-production method.⁴⁰ This method is believed sound and reasonable. Applying it to the rate base, found to be proper for the purpose of this proceeding, we conclude that the reasonable annual allowances for depreciation and depletion are \$1,709,060 and \$70,871, respectively.

³⁸ The accruals in 1941, per books, were \$2,036,577 for depreciation and \$101,805 for depletion.

³⁹ Federal Power Commission v. Natural Gas Pipeline Co. (1942) 315 US 575, 593, 86 L ed 1037, 42 PUR(NS) 129, 62 S Ct 736.

⁴⁰ Under the unit-of-production method, depletion of the investment in the wells and leaseholds is accrued at the same rate as the underlying gas reserves are withdrawn.

Taxes

[25] The staff proposed to adjust the taxes per books in 1941 by (1) eliminating overaccruals on the books, and (2) giving effect to savings in Federal income taxes.

Both adjustments are obviously necessary and appropriate. The books of the company indicate that the 1941 taxes, Federal, state, and local, were \$3,035,466. Reducing this sum by \$84,783 for overaccruals on the books, and by Federal income tax adjustment of \$1,882,148,⁴¹ leaves \$1,068,535, which we allow.

Exploration and Development Costs

[26] The books of the company showed a total of \$249,079 for "exploration and development costs" in 1941. The staff recommended that this amount be increased by \$28,822, but refused to include \$17,538 of dry hole expenses incurred in 1941.⁴² We shall include both of these amounts, bringing the total allowance to \$295,439.

Conclusions As to Expenses of Company

To summarize, the 1941 operating revenue deductions and exploration and development costs appearing on the company's books totaled \$10,625,749. The net effect of our adjustments in these items is to reduce such amount by \$2,815,612,⁴³ leaving \$7,810,137 for operating expenses, de-

⁴¹ The sum of \$1,882,148 represents the reduction in the company's 1941 Federal income tax which would have resulted if its net utility income had not exceeded a 64 per cent return (\$3,156,904) on the rate base of \$48,567,756.

⁴² Although this sum, \$17,538, was actually incurred in 1941, the work orders were not completed until 1942.

⁴³ This sum includes \$1,882,148 of Federal income tax saving.

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preciation and depletion expense, taxes, and exploration and development costs, as shown by the following tabulation:

Operating expenses	\$4,666,232
Depreciation	1,709,060
Depletion	70,871
Taxes	1,068,535
Exploration and development costs	295,439
Total	<u>\$7,810,137</u>

We conclude from the record that these sums are fair and reasonable allowances for the test year 1941.

Income Available for Return to Company

The following tabulation summarizes our conclusions to this point, and shows that the company's income available for return, after allowance for all necessary expenses, is \$9,550,793, or at least \$6,393,889 in excess of a fair return of 6½ per cent on the rate base:

Operating revenues	\$17,360,930
Less operating revenue deductions and exploration and development costs	<u>7,810,137</u>
Income available for return	\$9,550,793
Annual return of 6½% on rate base	<u>3,156,904</u>
Excess earnings (before allocation)	\$6,393,889

[27] In reaching this conclusion, we have used the year 1941 as the test period.⁴⁴ The evidence convinces us that such period, the latest full calendar year of record, is fair and reasonable.⁴⁵

The propriety of using this test period is confirmed by the company's 1942 operations. Indeed, a compari-

son of the operations, per books, for the first eleven months of 1942 with the corresponding period in 1941 shows that we have been liberal to the company in selecting 1941 as the test year. During such 11-month period in 1942, operating revenues increased \$1,984,808, operating revenue deductions (before Federal income and excess profits taxes) increased \$1,019,228, exploration and development costs increased \$30,383, and net utility income (before Federal income and excess profits taxes) increased \$935,197. Meanwhile, the net investment in plant, per books, decreased \$590,645, between December 31, 1941, and November 30, 1942.

We are not unmindful of the estimates of increases in future operating expenses presented by a witness for the company. Cross-examination revealed such estimates to be too speculative and conjectural to be relied upon. We prefer to accept experience as revealed by the company's most recent operations. Obviously it shows that increases in sales are more than offsetting increases in expenses.

Cost of Service Allocation

[28] The company's facilities and operations are devoted in part to natural gas service which is not subject to our jurisdiction. This service consists principally of gas sales made directly to large industrial consumers.⁴⁶ The necessity arises, therefore, for making an allocation of costs as between the jurisdictional and non-jurisdictional sales.

⁴⁴ However, in determining the credit to operating expenses for gasoline and other residuals extracted from the gas, a 4-year period was used.

⁴⁵ See *Detroit v. Panhandle Eastern Pipe*

Line Co. (Fed PC 1942) 45 PUR(NS) 203, 216, 217.

⁴⁶ The sales not subject to our jurisdiction amounted to 42,133,270 thousand cubic feet in 1941, or 41 per cent of the total sales, 102,241,557, in that year.

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Our staff submitted in evidence a cost of service allocation based upon a carefully prepared analysis of the company's property, operations, costs, types of customers served, and the characteristics of the customers' gas requirements. Under its method, the staff divided the cost of service, i. e., the total expenses and return, into two categories, namely, (1) costs related to the production and purchase of gas, and (2) those related to transportation and delivery of gas.⁴⁷

All costs in the first category were classified as "commodity" costs; those in the second category were segregated as among "commodity," "demand," and "customer" costs. In general, costs which vary with the volume of gas sales were placed in the "commodity" class; fixed costs which do not vary with the volume of gas sales were included in the "demand" class; and costs related to the number of meters were classed as "customers" costs. However, the return on the transportation facilities (including storage), and related state income taxes were allocated 50 per cent to "commodity" and 50 per cent to "demand."

The total of the "commodity" costs thus determined was allocated to the customers in the ratio that the customer's annual consumption bore to the total annual thousand cubic feet sales from the system in 1941. The "demand" costs were allocated in the ratio that the customer's consumption on the system peak day bore to the total system thousand cubic feet sales on that day. The day for this purpose

was January 3, 1942, the all-time system peak day.

[29] The company agrees in principle with the method used by the staff, but contends that error was committed in the application thereof, in that more costs should have been placed in the "demand" rather than in the "commodity" class. The staff's treatment of return, depreciation, and state income taxes as being "commodity" costs in part and "demand" costs in part, is challenged. The company urges that we should treat all such items as "demand" costs. The evidence convinces us that these contentions are without merit. Actually, under the company's theory, virtually all the transmission costs would be borne by the domestic and commercial consumers, although the transmission facilities are heavily used throughout the year, except during occasional peak periods, to serve the industrial customers. Upon a fair analysis of the record, we are impelled to find that the staff's allocation is indeed liberal to the company, it having assigned to the direct industrial customers an average cost of service (including return) of 8 cents per thousand cubic feet.⁴⁸ For this gas the company received revenues averaging more than 10 cents per thousand cubic feet.

[30] The company also objects to the staff's use of the deliveries on the all-time system peak day, January 3, 1942, as the basis for allocating demand costs. Instead, it proposes the use of theoretical deliveries on a colder day, based upon an assumed mean temperature of 4° below zero. These

the direct industrial consumers would average 5.7 cents per thousand cubic feet.

⁴⁷ This includes costs relating to storage.

⁴⁸ Under the company's method of allocation, such cost of service (including return) to

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theoretical deliveries were derived in part by indulging in the assumption that the total consumption on the hypothetical peak day would be spread among the various classes of customers in the same ratio as the consumption on January 18, 1940, a day on which the mean temperature was 4° below zero. The company's proposal to utilize an assumed peak day is too unrealistic to merit serious consideration. We find no reason to depart from the company's actual peak-day experience.

We conclude that the staff's method as applied was fair and reasonable, and, therefore, adopt it for the purpose of this proceeding.⁴⁹

We have allowed for expenses and return a total of \$10,967,041. Rents and other miscellaneous gas revenues, totaling \$121,782, should be credited thereto, leaving \$10,845,259 as the total cost of service. Applying the staff's method of allocation, we find that \$7,264,986 represents the total cost of service (including a fair return) for the sales subject to our jurisdiction, and \$3,580,273 represents the cost of service for the sales not subject to our jurisdiction.

Rate Reduction Available

The company's 1941 revenues from gas sales subject to our jurisdiction amounted to \$12,764,651.⁵⁰ We have found the reasonable cost of such service, including a reasonable and

fair return on the property devoted thereto, to be not more than \$7,264,986. The present interstate wholesale rates subject to our jurisdiction therefore yielded at least \$5,499,665 in excess of the reasonable cost of service in the test year 1941.

We conclude from the evidence that the interstate wholesale rates of Cities Service Gas Company subject to our jurisdiction are unlawful, unreasonable, and excessive, and should be reduced by at least \$5,499,665, based upon the test year 1941.

Proposed Hugoton Pipe Line

[31] However, the company claims it is confronted with a shortage of gas for its system. This condition, to the extent it exists, is due to a lack of adequate transportation facilities, not a shortage of gas reserves. The company owns or controls, according to the record, 182,182 acres in the Hugoton Gas Field (located in northwestern Oklahoma and southwestern Kansas), one of the very great gas fields in the United States.⁵¹ Its pipeline system, however, is not connected with the Hugoton Field.

On April 6, 1943, the company filed a formal application with the War Production Board, seeking priority assistance and a preference rating certificate for materials for the purpose, among others, of constructing a 240-mile, 26-inch pipe line, from the Hugoton Gas Field to its Blackwell, Oklahoma, compressor station.

⁴⁹ Re Interstate Nat. Gas Co. (1943) FPC Opinion No. 91, 48 PUR(NS) 267.

⁵⁰ The revenues from the nonjurisdictional sales were \$4,474,497.

⁵¹ The company submitted evidence showing that it owns or controls gas reserves in excess of 3½ billion thousand cubic feet, of which 2,150,000,000 thousand cubic feet are in the

Hugoton Gas Field, 1,279,850,000 thousand cubic feet in the Texas Panhandle Gas Field, and 156,049,331 thousand cubic feet in numerous other fields in Oklahoma and Kansas. These reserves will last in excess of twenty-nine years at the 1942 annual rate of withdrawals of 123,000,000 thousand cubic feet.

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On May 1, 1943, the War Production Board advised the company that favorable action could not be taken until assurances were obtained concerning certain specific conditions. Among these was the requirement that the company prosecute "required applications for approval of regulatory bodies, including the Federal Power Commission." No complete application for a certificate of convenience and necessity for the proposed line, however, has been filed with this Commission.⁵³

In order to expedite the construction of the line, on May 8, 1943, we advised Mr. J. A. Krug, Director, Office of War Utilities, War Production Board, that in issuing an interim order reducing rates, we would recognize return and depreciation on the estimated cost of the proposed Hugoton line. This action was taken in the public interest in order to assure that supplies of gas from the Hugoton Field would be available to meet increased demands on the company's system.

The company indicated its willingness to comply with the conditions imposed by the War Production Board, but requested that the preference rating certificate be issued to Cities Service Transportation and Chemical Company, a newly formed organization in the Cities Service system, and the preference rating certificate was granted accordingly.

We take judicial notice of the fore-

going. Consistent with our letter of May 8th to the Director, Office of War Utilities, we have decided, for the purposes of our interim order, not to reduce rates immediately by the full amount of the excessive return indicated by the test year 1941. We will allow the company to retain for the time being an amount sufficient to cover that portion of the possible added cost which is applicable to sales under our jurisdiction.

In arriving at such amount, we have taken the record estimate of cost of the proposed Hugoton project, approximately \$15,000,000. A 6½ per cent return on this amount is \$975,000, and depreciation at the rate of 3½ per cent⁵⁴ amounts to \$525,000, a total of \$1,500,000. The line will be used for transporting gas for sales over which we have jurisdiction as well as for sales over which we have no authority to fix rates. In accordance with the cost allocation used herein relative to the company's existing transportation system, there is assigned \$1,053,794 to jurisdictional sales and \$446,206 to nonjurisdictional sales. In other words, the Hugoton gas, it is assumed, will be available to jurisdictional and nonjurisdictional customers in the demand and consumption ratios experienced for the test year 1941.

Inasmuch as Cities Service Gas Company apparently is not building the line itself,⁵⁴ the amount of \$1,053,794 is treated as in the nature of

⁵³ In fact, this matter is the subject of an investigation in Re Cities Service Gas Co. our Docket No. G-487, July 20, 1943, wherein the company has been directed to show cause why it should not be held to be in violation of the provisions of the Natural Gas Act and required to obtain authorization for the proposed pipe line.

⁵⁴ We have allowed a depreciation rate of 50 PUR(NS)

2½ per cent for transmission mains and 3½ per cent for compressor stations. To be conservative, we use, for the purpose of an interim order only, 3½ per cent for the Hugoton project, which will also include compressor stations.

⁵⁴ The exact status of the company's responsibilities have not yet been determined.

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a tentative additional allowance for the procurement of gas.

After the lapse of a few years, the Hugoton line, unless other sources of gas closer to the company's system are discovered, will supply gas to take the place of gas now purchased or produced elsewhere. Thus a substitution will occur; gas from the Hugoton Field will be substituted for gas now being obtained from other fields, particularly purchased gas.

It is impossible to determine this far in advance whether the cost of gas in the Hugoton Field will be more or less than that presently incurred in obtaining gas which Hugoton gas will displace. It is conceivable that the Hugoton gas will be less costly. In order, however, to provide a wide margin of safety, we allow, for the purpose of an interim reduction in rates, the fixed costs of return and depreciation, to the extent they apply to sales over which we have jurisdiction, on the proposed Hugoton project as an *additional* cost over and above the reasonable cost of service allowed for 1941. We have already included in the rate base the investment the company has made in gas lands and leases in the Hugoton area. The only assumption we make in this connection is that the cost of operating the project (labor, material, and supplies) and ad valorem taxes will be offset by savings in purchased gas or production expenses. This is a very reasonable assumption. The cost of purchased gas averaged 4.43 cents per thousand cubic feet for 1941. The average cost of operating and main-

taining the transmission system of the company was 1.09 cents per thousand cubic feet in that year. The average cost (excluding depreciation, taxes and return) of producing gas, amounted to 1.038 cents in 1941. Accordingly, the additional allowance of \$1,053,794 by any reasonable test is more than adequate to cover the additional cost, if any, of obtaining gas from the Hugoton Field to supplant gas of an equivalent amount from other sources.

This additional allowance should eliminate any question of gas shortage as an issue in this proceeding. To reiterate, the record shows that the company owns and controls very substantial acreage in the Hugoton Field. The Hugoton Field is one of the very great gas fields in this country. It appears from the evidence that, for several years to come, the additional source of supply will add to the company's capacity as it existed in 1941 and will produce very substantial additional sales over that test year. We have not, however, taken such sales into account in determining the excessive earnings of the company.

While a strict interpretation of rate-making principles might require no allowance for return and depreciation on the Hugoton project until it is completed and in service,⁶⁹ we believe that, because of the urgent necessity for relieving the gas transportation shortage during the war emergency, it is in the public interest presently to make such an allowance in connection with the interim reduction of rates ordered in this proceeding. We

⁶⁹ Mr. Chief Justice Stone, in *Federal Power Commission v. Natural Gas Pipeline Co.* (1942) 315 US 575, 587, 86 L ed 1037, 42 PUR(NS) 129, 138, 62 S Ct 736, observed

that "... the refusal to include in the rate base capital expenditures not yet made cannot involve confiscation."

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shall reserve, however, the right to re-examine the facts relating to this aspect of the proceeding at the time of our final order. Thus, it is possible to assist materially in the relief of this natural gas emergency situation, provide immediately a substantial reduction in rates for the consuming public, and, additionally, assure the company that its responsibilities have been and will be fully considered by this Commission.

We desire to emphasize that the above allowance is made only for the purposes of this interim order. At the proper time when the pertinent facts resulting from the test of experience are available, we of course will take such further action as then appears appropriate.

Conclusion

We conclude from the record that the present rates and charges of Cities Service Gas Company for natural gas sold in interstate commerce for resale, subject to our jurisdiction, are unjust, unreasonable, unlawful, and violative of the provisions of the Natural Gas Act. Therefore, until further order of this Commission, we determine that the just and reasonable rates, charges, classifications, rules, regulations, practices, or contracts to be hereafter observed by Cities Service Gas Company and fixed by order of this Commission shall reflect an immediate reduction of at least \$4,445,871 below those in effect during the year 1941.

An appropriate order providing an interim reduction in rates will be entered in accordance with this opinion.

ORDER

Upon consideration of the entire
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record herein, and having on this date issued its Opinion No. 95, which is made a part hereof by reference,

The Commission, for the purpose of this interim order, *finds* that:

(1) Cities Service Gas Company (hereinafter referred to as "company"), a Delaware corporation, produces natural gas in the states of Texas, Oklahoma, and Kansas, and purchases natural gas in the states of Oklahoma, Kansas, and Missouri, transports said natural gas from the states in which it is produced or purchased, through or into other states, and sells such natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or other uses in the states of Oklahoma, Kansas, Missouri, and Nebraska, such gas being transported by means of the company's integrated pipe-line system consisting of approximately 4,300 miles of field and main transmission lines extending from the Texas Panhandle Gas Field on the west to Marshall and Springfield, Missouri, on the east, and from the Fitts Gas Field in Pontotoc county, Oklahoma, on the south to Superior and Falls City, Nebraska, on the north, crossing the various state lines at seventeen points; and, therefore, the company is a natural gas company within the meaning of the Natural Gas Act;

(2) The rates and charges demanded, observed, charged and collected by the company for the transportation and sale of natural gas in interstate commerce, as described in finding (1) above, together with the rules, regulations, practices, and contracts affecting such rates and charges, are subject to the jurisdiction of this Com-

RE CITIES SERVICE GAS COMPANY

mission under the Natural Gas Act;

(3) No necessity was shown to exist for the consideration in this proceeding of the company's evidence of reproduction cost or "fair value" of its property;

(4) The gas plant in service was carried on the company's books as of December 31, 1941, at \$86,134,829, which sum included, among others, \$10,793,370 for the unretired portion of a \$17,440,935 write-up recorded as of November 30, 1926; \$6,384,731 for so-called "intangibles" representing principally write-ups carried forward from the books of various affiliated predecessors, and past operating expenses on unused transmission line capacity, \$1,185,349 for plant not used in rendering gas service, \$529,773 for past operating expenses and costs applicable to abandoned leases, and \$501,559 for property retired. In arriving at the actual legitimate cost of the gas plant used and useful at December 31, 1941, it is necessary to eliminate such write-ups and other improper charges, as more fully set forth in the opinion issued herein;

(5) The actual legitimate cost before depreciation, within the meaning of § 6(a) of the Natural Gas Act, of the company's gas plant used and useful, as of December 31, 1941, is not more than \$66,977,654;

(6) The actual existing depreciation and depletion, i. e., reserve requirement for depreciation and depletion, in the company's properties used and useful as of December 31, 1941, is not less than \$21,804,449, as follows:

Depreciation	\$20,779,558
Depletion	1,024,891
Total	<u>\$21,804,449</u>

and such sum should be deducted from the actual legitimate cost of \$66,977,654, in arriving at the rate base for the purpose of this order;

(7) The cost of gas plant completed at December 31, 1941, but carried on the books of the company as "Construction Work in Progress," and the transmission line to the Cement Gas Field which was virtually completed at such date, was \$1,576,357; and this sum should be included in the rate base for the purpose of this order;

(8) The proper and reasonable allowance for working capital to be included in the rate base for the purpose of this order is not more than \$1,818,194;

(9) For the purpose of this order, the reasonable rate base for the company as an assembled whole and an established natural gas utility is not more than \$48,567,756, as shown by the following tabulation:

Actual legitimate cost:	
Natural gas rights and leaseholds	\$1,644,349
Storage gas rights and leaseholds	346,931
Transmission and gathering lines, compressor stations, gas wells and all other property in service	64,986,374
Total actual legitimate cost	<u>\$66,977,654</u>
Less existing depreciation and depletion	<u>21,804,449</u>
Total investment in plant in service	\$45,173,205
Construction work in progress ...	1,576,357
Working capital	1,818,194
Rate base	<u>\$48,567,756</u>

(10) An annual rate of return of not more than 6½ per cent on the rate base of \$48,567,756, or \$3,156,904, is a fair and reasonable return to the company;

(11) The company's operating revenues in 1941 totaled \$17,360,930;

FEDERAL POWER COMMISSION

(12) For the purpose of this order, the amount of not more than \$7,810,137 is a fair and reasonable allowance for expenses, as shown by the following tabulation:

Operating expenses	\$4,666,232
Depreciation	1,709,060
Depletion	70,871
Taxes	1,068,535
Exploration and development costs	295,439
Total	\$7,810,137

(13) The company's operating revenues, less deductions for proper operating revenue deductions and exploration and development costs, in 1941 exceeded a fair return, on the rate base herein allowed, by at least \$6,393,889, before allocation, as shown by the following tabulation:

Operating revenues	\$17,360,930
Less operating revenue deductions and exploration and development costs	7,810,137
Income available for return	\$9,550,793
Fair return—6½% of rate base ..	3,156,904
Excessive earnings (before allocation)	\$6,393,889

(14) The company's revenues in 1941 from gas sales subject to the Commission's jurisdiction were \$12,764,651; the reasonable cost of such service, including a reasonable and fair return on the property devoted thereto, was not more than \$7,264,986; and said revenues were at least \$5,499,665 in excess of such reasonable cost of service in 1941;

(15) The rates and charges made, demanded, or received by the company for or in connection with its transportation and sale of natural gas in interstate commerce for resale for ultimate public consumption are unjust, unreasonable, and excessive by at least \$5,499,665, based upon the

company's operations during the test year 1941;

(16) Due, however, to the necessity for relieving the gas transportation shortage in the Mid-Continent area, and in order to expedite the construction of a proposed 26-inch main transmission pipe line to the Hugoton Gas Field and other facilities required to produce and transport gas from such field, it is in the public interest, for the purpose of this interim order, to make an additional allowance of \$1,053,794 in the cost of service for the company's gas sales subject to the Commission's jurisdiction;

(17) The natural gas rates and charges of the company subject to the Commission's jurisdiction should be reduced by not less than \$4,445,871, as hereinafter provided;

Wherefore, the Commission orders that:

(A) The rates and charges made, demanded, or received by the company for or in connection with its transportation and sale of natural gas in interstate commerce for resale for ultimate public consumption shall be so reduced as to reflect, when applied to such 1941 transportation and sales, a reduction of not less than \$4,445,871 below its 1941 operating revenues of \$12,764,651 received from such transportation and sales;

(B) The company shall file on or before September 1, 1943, new schedules of rates and charges for or in connection with its transportation and sale of natural gas in interstate commerce for resale for ultimate public consumption, which shall reflect the reduction in gross operating revenues ordered in paragraph (A) above,

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which new schedules of rates and charges shall be effective as to all bills regularly rendered on or after September 1, 1943;

(C) The Commission reserves the right to reject all or any part of such new schedules and in lieu thereof to prescribe any other schedules by further order;

(D) On and after the effective date of the new schedules of rates and charges filed and made effective in accordance with paragraph (B) above, the company shall cease and desist from making, demanding, or receiv-

ing any rates and charges which do not reflect the reduction ordered in paragraph (A) above;

(E) In accordance with the opinion issued herein, this order shall be without prejudice to any future action in this proceeding as the Commission may deem necessary or desirable, and final action herein is reserved;

(F) This order shall not be construed as an acquiescence by this Commission in any estimates or determinations of original cost, or any valuation of property, claimed or asserted by the company.

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Re Southern United Gas Company et al.

[Opinion No. 92, Docket Nos. G-443, G-306-G-308.]

Certificates of convenience and necessity, § 147 — Cancellation — "Grandfather" certificate.

1. A "grandfather" certificate issued to a wholly owned subsidiary under the Natural Gas Act should be vacated when the facilities of the subsidiary are acquired and operated by the holding company which has not been engaged in the transportation of natural gas in interstate commerce or in the sale in interstate commerce of such gas for resale, since there is no provision in the Natural Gas Act for the transfer of a certificate issued under the "grandfather" clause of the act, p. 98.

Certificates of convenience and necessity, § 64 — "Grandfather" rights — Time limit to claim certificate.

2. A natural gas holding company which did not acquire the facilities of its wholly owned subsidiaries and file a "grandfather" application covering the facilities and operations within the time period allowed under the "grandfather" clause of the Natural Gas Act, must obtain a certificate under § 7(e) of the Natural Gas Act, 15 USCA § 717f(e), before it can acquire or operate the facilities of its subsidiaries, p. 98.

[July 3, 1943.]

APPPLICATION for authority to acquire and operate facilities of wholly owned subsidiary natural gas company; authority granted.

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APPEARANCES: Harry P. Daily, Fort Smith, Arkansas, for Southern United Gas Company; Charles V. Shannon, General Counsel, Edward H. Lange, Principal Attorney, and William L. Brunner, Attorney, Washington, D. C., for the Federal Power Commission.

By the COMMISSION: Southern United Gas Company (hereinafter referred to as Southern United) filed an application on February 3, 1943, under § 7 of the Natural Gas Act, 15 USCA § 717f, as amended, seeking a certificate of public convenience and necessity authorizing it to acquire and operate the facilities of its six wholly owned subsidiaries, Arkansas-Oklahoma Gas Company, Industrial Oil & Gas Company, Ozark Natural Gas Company, Southwestern States Gas Company, Twin City Pipe Line Company, and Western Oklahoma Gas Company. Each of these subsidiaries joins in the application and requests authority to convey and transfer all operating properties to Southern United in consideration of which Southern United proposes to assume all obligations of its subsidiaries and cancel all outstanding stock issued by them.

Hearing was held in Washington, D. C., pursuant to notice duly published in the Federal Register and written notices duly given to the Department of Public Utilities of the state of Arkansas and the Corporation Commission of the state of Oklahoma, and to the governor of each of those states. No protest has been received or opposition expressed to the granting of the application. The Department of Public Utilities of the

state of Arkansas and the Corporation Commission of the state of Oklahoma filed letters in this proceeding expressing their opinion that the application should be granted.

Corporate History

Southern United Gas Company is a Delaware corporation, having its principal office at Fort Smith, Arkansas. It is a holding company, organized in 1936, pursuant to reorganization proceedings of a predecessor company, Southern United Gas Company of New Jersey, under § 77(b) of the Bankruptcy Act. The bankrupt New Jersey Corporation was formerly affiliated with Middle West Utilities Company (one of the so-called Insull properties). Southern United has no affiliation with utilities, other than its subsidiaries. It owns all of the stock of Arkansas-Oklahoma Gas Company, Industrial Oil & Gas Company, Ozark Natural Gas Company, Southwestern States Gas Company, Twin City Pipe Line Company, and Western Oklahoma Gas Company. Southern United controls the operations of its six subsidiaries and it has no other business.

Jurisdiction

[1, 2] Southern United does not engage in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of such gas for resale.

Arkansas-Oklahoma Gas Company is a Delaware corporation authorized to do business in both Arkansas and Oklahoma and it owns and operates pipe-line systems in those states. It purchases, transports, and sells natural gas produced in Arkansas for re-

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sale and ultimate public consumption in Arkansas, and it purchases, transports, and sells gas produced in Oklahoma for resale and consumption in Oklahoma. It also purchases natural gas produced in Oklahoma and sells it for resale and ultimate public consumption in Arkansas.

Twin City Pipe Line Company is an Arkansas corporation engaged in the transportation and sale of natural gas in the state of Arkansas, both directly to industrial customers and to distributors for resale for ultimate public consumption. This company obtains its requirements of natural gas from its affiliates, Industrial Oil & Gas Company, Western Oklahoma Gas Company and Arkansas-Oklahoma Gas Company. Part of this gas is produced and transported in Oklahoma prior to delivery to Twin City Pipe Line Company, and the remainder is produced in Arkansas. All of its pipe lines and appurtenant facilities are located in Arkansas.

Western Oklahoma Gas Company, a Delaware corporation, owns and operates facilities located in Oklahoma. It is engaged in the production, transportation, and sale of natural gas in Oklahoma for resale for ultimate public consumption in Arkansas and Oklahoma.

The other three subsidiaries do not engage in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of such gas for resale. They conduct the following operations: (1) Industrial Oil & Gas Company, an Arkansas corporation, owns producing acreage in gas fields in Arkansas and it is engaged in the production of natural gas in these fields. It also purchases

gas at the well-mouth from individual producers in Arkansas. This gas is sold to its affiliate, Twin City Pipe Line Company, for transportation, sale, and consumption only in Arkansas; (2) Ozark Natural Gas Company, a Delaware corporation, owns producing acreage in gas fields in Arkansas and it is engaged in the production of natural gas which it sells to its affiliate, Arkansas-Oklahoma Gas Company, for resale in Arkansas; and (3) Southwestern States Gas Company, a Delaware corporation, owns and operates local gas distribution systems in Arkansas and Oklahoma. It sells in Arkansas natural gas produced in Arkansas, and it sells gas produced in Oklahoma in certain communities in Oklahoma. All of its sales are at retail and none of the gas moves across state lines.

Arkansas-Oklahoma Gas Company (Docket No. G-308), Twin City Pipe Line Company (Docket No. G-307), and Western Oklahoma Gas Company (Docket No. G-306) filed separate applications on May 7, 1942, under the "grandfather" provision of § 7(c) of the Natural Gas Act, as amended, for certificates of public convenience and necessity, authorizing the continuation of operations by the companies, subject to the Commission's jurisdiction, in which the companies on February 7, 1942, and subsequent thereto, have been bona fide engaged. A "grandfather" certificate was issued to Western Oklahoma Gas Company on February 3, 1943. But, in view of the fact that there is no provision in the Natural Gas Act for the transfer of a certificate issued under the provisions of § 7 of the act, such certificate should now be vacated.

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The other applications are now pending before us.

Since Southern United Gas Company did not acquire the facilities of the subsidiaries and file a "grandfather" application covering the facilities and operations within the 98-day period allowed after the amendment to § 7 of the act, it is subject to the provisions of § 7(c) that (1) no natural gas company or person shall engage in the transportation or sale of natural gas, subject to the jurisdiction of the Commission, or acquire or operate any facilities therefor or extensions thereof, without having applied for and obtained a certificate of public convenience and necessity authorizing such acts or operations, and (2) the application shall be decided in accordance with the procedure provided in § 7(e).¹

Scope of Operations

The six subsidiaries have officers and directors in common with Southern United and the business and operations of the subsidiaries are conducted as a single enterprise in supplying natural gas to Fort Smith, Arkansas, and vicinity. Approximately 60 per cent of the sales are direct to industries; about 30 per cent to Fort Smith Gas Company, a non-affiliate, for resale to domestic and commercial consumers in Fort Smith, Van Buren, and Alma, Arkansas, the balance being sold in local communities and to isolated customers along or adjacent to their

pipe lines, principally through the facilities of Southwestern States Gas Company. Market outlets are almost wholly in Arkansas with approximately 3 per cent of total sales in Oklahoma.

The three producing subsidiaries control in the aggregate approximately 91,000 acres of gas leases and 5,000 acres of mineral rights; approximately 14,000 acres are producing gas. There are sixteen separate areas designated as gas fields from which production has been obtained by one or more of the subsidiary companies and all of these fields are still productive. The aggregate reserves are estimated to approximate 76 billion cubic feet and all of the sources, both producing and potential, are within 20 miles of the main transmission lines now in use. Some of the present fields have been producing for twenty-seven years and the present known reserves are considered sufficient to supply the communities served for fifteen to twenty years more. The producing subsidiaries control approximately 97 per cent of all known sources of production in the territory served by all of the subsidiaries. Fort Smith Gas Company owns a few wells near Fort Smith from which it produces about 3 per cent of its supply. The daily demand in Fort Smith and vicinity is from 9,000,000 cubic feet minimum to 31,000,000 cubic feet maximum, but the gas wells now producing with present transmission and compressor facilities would enable the systems to deliver approximately 25 per cent more than this daily demand without further drilling. Southwestern States Gas Company has recently been called upon to supply Camp Chaffee, a new

¹ Issuance of a certificate under the procedure in § 7(e) requires a finding, among other things, that the proposed acts or operations are required by the present or future public convenience and necessity.

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Army camp near Fort Smith, and various new communities in the vicinity of the camp.

Public Convenience and Necessity

The acquisition by Southern United of the facilities of its subsidiaries does not involve any new financing and will not change revenues or fixed charges. No changes in rates are contemplated as a result of the proposed acquisition. Consolidation will result in operating economies, principal-

ly, in the matter of accounts and transactions with state and Federal agencies. The number of reports necessary to be made to state and Federal agencies will be greatly reduced. Corporate responsibility will be centralized. A single set of books will be kept in place of seven. This simplification will promote efficiency of operation and aid in providing better service to the public.

An order will be entered in accordance with this opinion.

NEW YORK DEPARTMENT OF PUBLIC SERVICE, STATE DIVISION, PUBLIC SERVICE COMMISSION

Re Cabot Gas Corporation

[Case No. 10549.]

Commissions, § 25 — Limitations on jurisdiction — Rulings by tax assessors.

1. The Commission is not bound either in valuation or accounting proceedings by valuations of utility property for tax purposes by local tax assessors, p. 103.

Accounting, § 32 — Purchase price of transmission main — Prospective business.

2. A revaluation of an abandoned natural gas line purchased by a manufactured gas company is not justified by the prospect of additional house heating load in the area served by the company, since the use of artificial gas for heating is generally predicated on rates which are too low to cover a large investment in the distribution and transmission system, p. 103.

Accounting, § 32 — Purchase price of transmission main — Increased plant capacity.

3. The fact that a manufactured gas company has been authorized by the War Production Board to enlarge its manufactured gas plant capacity has no direct bearing on the question of the company's recording on its books the original cost and accrued depreciation of a pipe line purchased from a natural gas company, p. 105.

Accounting, § 32 — Purchase price of transmission main — Prospective increase in business.

4. A manufactured gas company's accounting for the original cost and accrued depreciation of property purchased from a natural gas company should not be affected by the fact that the natural gas company from whom it purchased the property has applied to the Federal Power Commission for the removal of its pipe line in near-by territory which would then be de-

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pendent upon the manufactured gas company for service, where there has been no decision upon the application for abandonment, where it has not yet been determined whether the area affected by the abandonment would continue to be served with natural gas, a mixed gas, or a manufactured gas, and where any use of the pipe line for this purpose is a future use, p. 105.

Accounting, § 32 — Purchase price of transmission main — Depreciation.

5. The difference between the price paid by an artificial gas company for a transmission main abandoned by a natural gas company and the original cost of the main should be taken as the depreciation in making the journal entries required in connection with the purchase, p. 106.

(MALTBIE, Commissioner, concurs in separate opinion.)

[July 7, 1943.]

REHEARING as to journal entries recording acquisition of gas transmission mains; prescribed journal entries affirmed.
For earlier opinion see (1943) 48 PUR(NS) 110.

APPEARANCES: Gay H. Brown, Counsel (by Laurence J. Olmsted, Assistant Counsel) for the Public Service Commission; T. Carl Nixon, Rochester, Attorney, for Rochester Gas and Electric Corporation; Whitman, Dey & Nier (by Earl C. Dey) Rochester, Attorneys, for Rochester Gas and Electric Corporation.

BURRITT, Commissioner: To record on its books the original cost of the property, works, system, and franchises purchased from the Cabot Gas Corporation and the accrued depreciation on the same to April 28, 1942, the Rochester Gas and Electric Corporation submitted the following journal entries:

101	Manufactured Gas Plant in Service	\$314,738.46
	to	
105	Manufactured Gas Plant Acquisition Adjustment	\$178,860.10
106.2	Manufactured Gas Plant Purchased	100,000.00
250.1	Reserve for Depreciation of Manufactured Gas Plant in Service	35,878.36

On March 16, 1943, 48 PUR(NS) 110, the Commission approved my 50 PUR(NS)

memorandum of March 8th reporting the evidence received at the hearings, and recommending disapproval of these entries, and by order directed the corporation to make journal entries to reflect the purchase of the 20 miles of Cabot line, as follows:

101	Manufactured Gas Plant in Service	\$314,738.46
	to	
106.2	Manufactured Gas Plant Purchased	100,000.00
250.1	Reserve for Depreciation of Manufactured Gas Plant in Service	214,738.46

By petition dated April 21, 1943, the corporation asked for a rehearing and extension of time in which to comply with the provisions of the order. By order adopted May 11, 1943, a rehearing was granted. Such a hearing was held at Albany on May 28, 1943. Reference is made to my report of March 8th approved by the Commission March 15th for a summary of the evidence presented at hearings in the original proceeding.

Corporation's Proof on Rehearing

In its petition for rehearing the

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corporation asked an opportunity to submit additional proof at the hearing on May 28th. Its proof was directed to the following points:

(1) that the property is assessed, and will continue to be assessed at almost double the purchase price, to wit,—\$197,265;

(2) that in fact the potential use of the property is of greater magnitude than previously shown by the testimony of the corporation;

(3) that consideration is now being given by the Federal Power Commission and the Office of War Utilities to the removal of the balance of the Cabot pipe line south of Monroe county, thereby making imminent a supply to the Pavilion system by Rochester;

(4) that the War Production Board has granted approval to the corporation to enlarge its gas plant capacity, thereby making available an immediate opportunity to serve all, or at least a part, of the Pavilion system.

Cabot line assessments. The corporation presented through its witness, Robert Ginna, assistant to the President, testimony concerning 1942 assessments of the Cabot gas property now owned by Rochester Gas and Electric Corporation. These assessments supported by certified statements from the respective town clerks and shown in Exhibit 33, are as follows:

Chili	\$70,496.00
Gates	51,763.00
Greece	33,755.00
Wheatland	41,251.00
	<hr/>
	\$197,265.00

Mr. Ginna testified that he had made strenuous efforts to secure reduction in these assessments but failed

to do so. He testified that the corporation has actually paid taxes on these amounts.

At the original hearing Mr. Goldthwaite testified that in his opinion the corporation would not be justified in paying more than \$100,000 for the Cabot property it acquired. In rebuttal to this testimony the corporation offered the above testimony on assessments, contending that it is some evidence of the value of the Cabot line and that it is required to pay taxes on such assessed value. The corporation does not claim that such assessed value, or any different cost, should be entered on its books as original cost, but that its evidence shows that Mr. Goldthwaite's depreciation is "entirely too large" and that its own estimate of depreciation is proper and correct.

[1] It is perhaps superfluous to remark that the Public Service Commission cannot be governed either in valuation or accounting procedure by valuations for tax purposes made on utility property by local tax district assessors. If in fact the tax burden is oppressive, as a result of the high assessments, the result is rather to depress the real value of the property, not to raise it. This is the only inference relevant to the proceeding which can be drawn from the evidence on assessments.

[2] *Potential use of the line.* Another claim of the Corporation is that there is a greater potential use of the Cabot line in the area claimed to be affected than previously indicated in its testimony. In Mr. Goldthwaite's Exhibit 31, presented at the hearing on January 8th, the total number of customers in the territory considered

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by him as affected was given as 3,871 customers. In Exhibit 34, presented by the corporation on May 28th, it claims 7,035 customers in 1941 and that the area served is a growing one. A summary of the number of customers which the corporation claims are affected in the towns located contiguous to the Cabot line, from 1937 to 1942, is shown in the Corporation's Exhibit 34, as follows:

	1937	1938	1939	1940	1941	1942
Total	4561	5338	5850	6311	7035	7637
% Increase ..		17%	28%	38%	54%	67%

Practically all the increase in the corporation's 1941 figure, over that used by Mr. Goldthwaite, is obtained by increasing the number of customers in the town of Greece, from 700 (Mr. Goldthwaite's figure for those affected) to 3,851. The increased number of 3,151 customers were claimed to be indirectly affected. Mr. Ginna admitted that most of these customers were not served from the Cabot line, but he insisted that the Cabot line would be used (when War Production Board permits the construction of the necessary tie lines) to increase pressures in the town of Greece which are now low due to heavy overloads and to store gas (*infra*). There are no connections between the Cabot line and distribution lines in the town of Greece at the present time.

Mr. Goldthwaite's estimate, based on the cost of mains in the several towns, as taken from the corporation's books and on 3,851 customers which he considered directly affected by the line, was that the cost of mains in the several towns along the Cabot line was about \$20 per customer. Even if the cost burden of the Cabot

line were to be redistributed so as to take in the larger number of potential customers alleged by the corporation, it is not probable that the average cost per customer would be greatly reduced. Even without the Cabot line, suburban and rural customer unit cost of mains is extremely high as compared with \$43 per customer in the city of Rochester, as is readily apparent from a study of Mr. Goldthwaite's Exhibit 31.

The corporation also claims that in addition to the use of the Cabot line for transmission of gas, it is useful as an underground storage holder. The capacity of the 20 miles of line, at 80 pounds pressure, is claimed to be 500,000 cubic feet of gas, which could be obtained by drawing pressure down to 5 pounds. Mr. Ginna testified that the gas is pumped into the line five days a week and over Saturday and Sunday pumping and labor costs are saved and the line is used as a holder with pressure pulled down to 30 or 40 pounds. The line is also claimed to be useful in an emergency, such as temporary shutdown of near-by Station 9 which occurred about Christmas time of last year.

Generally it is claimed that the Cabot line is used as a west side storage holder with a minimum capacity of 400,000 cubic feet extending over a distance of 20 miles and lending itself to more flexible operation than a holder at a fixed point. The corporation has a holder of about 6,000,000 cubic feet capacity on the east side of the city in one location, and claims that a holder of at least 500,000 capacity is necessary on the west side of the city. To construct such a holder would cost about \$75,000. However,

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the evidence did not definitely establish that such a holder is necessary or that the corporation would build one at this time if the Cabot line were not available.

A great deal of stress was placed by the corporation's witness on the prospects of additional house-heating loads in this suburban and rural territory. It is apparently implied that such business would justify a large investment in transmission mains, and hence call for a revaluation of the purchased Cabot line. The inference is not justified. The use of artificial gas for heating is generally predicated on rates which are too low to cover a large investment in distribution and transmission system. Arguments heretofore made before this Commission in justification of such rates have been generally to the effect that the fixed charge burden can be largely disregarded because the mains were already in place and not heretofore used to full capacity. If this is so, how then can a house-heating business be considered as justification for building new mains to any great extent, or permitting an upward revaluation of old ones?

[3] *Increased plant capacity.* As evidenced by a copy of its application to the War Production Board and a Preference Rating Order issued March 17, 1943, the War Production Board gave approval to the corporation to enlarge its manufactured gas plant capacity. This is to be accomplished by adding three oxide purifier boxes to the ten now in service. The size of the present purifying equipment is said to be a bottleneck in the production output of its plant. The proposed addition will increase plant

capacity by at least 2,500,000 cubic feet daily, or about 10 per cent of the maximum send-out of 27,000,000 cubic feet per day of last winter. Most of the estimated cost of this construction, or about \$32,000, is labor. The corporation is authorized by the War Production Board order to buy new and to use from its inventory material of a total value of \$5,645. Concrete is to be substituted for steel. The work is now in progress. This evidence has no direct bearing on the issues here. It is only supposed to support the possibility of the corporation's supplying a new market for artificial gas at Pavilion, as described below.

[4] *Service to Pavilion.* The corporation called attention to the fact that a new application by the Cabot Gas Corporation is now pending before the Federal Power Commission for the removal of its line south of Monroe county. Mr. Ginna testified that he had advised the Office of War Utilities, the War Production Board, the Office of the Petroleum Administrator, and the Ordnance Department of the United States Army, all of which are anxious to obtain the Cabot 14-inch pipe for use elsewhere, that the Rochester Gas and Electric Corporation is prepared to serve Pavilion with manufactured gas if it is permitted to do so. He stated that his corporation would make a firm commitment of a minimum of 200,000 cubic feet per day, which if accepted would mean that it would acquire a customer using about 60,000,000 cubic feet of gas annually. No formal application has been made to the Rochester Gas and Electric Corporation by the Pavilion Company, but

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the matter has been discussed with President White of that company.

As there has been no decision by the Federal Power Commission upon the application of Cabot Gas Corporation; as it has not yet been determined whether Pavilion will attempt to continue to serve a natural gas, a mixed gas, or a manufactured gas; as there are many uncertainties in this situation; and further, since any use of the line for this purpose is a future use and does not concern the question here at issue, this particular evidence can be given little weight.

Even if it is assumed (though not justified by the evidence) that the sale of gas to Pavilion by Rochester is imminent, there is no evidence whatever regarding prospective earnings from such sales, and nothing else to justify any presumption that it will be so profitable to the Rochester Corporation as to call for a revaluation of the connecting line, in addition to paying fixed charges on all of the other facilities necessary to give this service.

Discussion

[5] The applicant's evidence as to assessed valuation, the authorized enlargement of its plant capacity, and the offer to serve Pavilion, is new. The evidence as to the potential use of the line is not generally new, although it has been amplified and set forth in much greater detail. However, none of this evidence, nor all of it together, is of such a character or of sufficient weight to change the conclusion reached in the original opinion. Much of it is applicable to a period subsequent to April, 1942. The added evidence does not modify the applica-

tion of the principle on which the case was decided. It merely shows, so far as it shows anything, a greater degree of probable future use.

The applicant's additional proof is wholly insufficient to offset the facts on which the original findings were made, viz., that the arm's-length sale and purchase of the Cabot property fixed its value as of the date of transfer, and that the price paid was the best evidence of the actual depreciation existing in the property with respect to its original cost to Cabot. Nor does the supplementary evidence indicate a value in excess of that price. Referring again to the very high costs per customer shown by Exhibit 31, the evidence tends rather to indicate a commercial value of the Cabot line to the Rochester Corporation possibly below but certainly no greater than the price paid.

My conclusion on the evidence at the original hearing that the difference between the purchase price to Rochester and the original cost to Cabot should be taken as the depreciation in making the journal entries required in connection with the purchase, is proper and correct, supported by the record, and the evidence on the rehearing does not contradict or weaken it.

The finding in my report of March 8th that the difference between the purchase price of \$100,000 and original cost of capital of \$314,738.46 is the proper measure of depreciation existing in the property with respect to that cost and the order of March 16, 1943, prescribing journal entries accordingly should in all respects be confirmed.

RE CABOT GAS CORPORATION

MALTBIE, Chairman, concurring:

The substance of the company's proposal is that it be permitted to show among its assets an account amounting to \$178,860.10 which represents no investment and no amount of money actually paid by the company.

The plain facts of the case are that the Rochester Gas & Electric Corporation paid \$100,000 for certain gas mains and allied property and wishes to make entries on its books to indicate that they had assets of a cost greatly in excess of the amount this company has actually invested in the property.

It is true that the property acquired originally cost *another* company nearly \$315,000. That company has ceased to operate this property as a *natural* gas system and has sold its property *to be used for another purpose* for \$100,000. This transaction was "arm's-length bargaining." Doubtless, the Cabot Gas Corporation undertook to get the largest possible price it could obtain for the property and that the Rochester Gas & Electric Corporation undertook to pay as little for the property as it could. As a result, a transaction was completed that demonstrated that the property had depreciated from its original cost for the purpose originally constructed to the extent of nearly

\$215,000; and the Commission approved the purchase at \$100,000. There seems to have been no claim that the amount paid was unreasonable.

The Rochester Gas & Electric Corporation wants to enter fictitious items on its books. It now asks to have the Commission find that the depreciation was only about \$36,000 and that there should be an entry in an asset account of \$179,000 in round figures.

If the company desires to enter the original cost to another company among its assets, it should be required to place in the depreciation reserve on the liability side of its balance sheet the depreciation actually developed at the time of the sale, so that the books will clearly show a net cost equal to the price actually paid. If it is not content to follow this plan, the company should not be permitted by any book entries to record other than the actual facts, namely, that it acquired this property for \$100,000. The public in the future should not be required to pay a return or to provide for depreciation on any amount in excess of \$100,000, and security holders should not be misled by fictitious asset entries. I concur fully in the conclusion reached by Commissioner Burritt.

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Pennsylvania Publications, Incorporated
v.
Public Utility Commission

(— Pa Super Ct —, 32 A(2d) 40.)

Procedure, § 40 — Commission proceedings — Trial by jury.

1. The right of trial by jury in proceedings before the Commission is not granted by either the state Constitution or the Public Utility Law, p. 114.

Witnesses, § 5 — Commission proceedings — Subpoena duces tecum.

2. The publisher of a scratch sheet furnishing racing information for gambling purposes has no right to a subpoena duces tecum, in a Commission proceeding relating to the denial of telephone service to it, requiring representatives of other newspapers which printed racing news to produce a long list of enumerated books, papers, and records showing the service furnished them by the publisher and the sporting news published by said newspapers, the manner thereof, and the hours of distribution, p. 115.

Witnesses, § 6 — Depositions — Repetition of evidence.

3. The Commission properly refused to permit the taking of a deposition in a proceeding relating to a telephone company's denial of service where the testimony included in the deposition was substantially a repetition of what deponent had testified to earlier in the hearing and where some of his testimony would have been irrelevant to the case at hand, p. 115.

Evidence, § 18 — Weight — Police officials — Newspaper writers.

4. The court, in a proceeding relating to a telephone company's denial of service to the publisher of a scratch sheet furnishing horse-racing information for gambling purposes, would give more weight to the testimony of police officials who have to deal with the gambling situation than to the testimony of newspaper writers from another state who cover horse racing in that state, where betting at horse races is legal, one of whom frankly stated that he took "a different version than the law," p. 116.

Discrimination, § 229 — Telephone service — Denial to racing sheet.

5. The denial of telephone service to publishers of racing news used for gambling purposes, while continuing service to bona fide newspapers which carry racing news as a part of their sport news, does not constitute unlawful discrimination, p. 117.

Commissions, § 51 — Disqualification of Commissioner — Prejudice or bias.

6. A Commissioner should not be disqualified from participating in a hearing relating to the denial of telephone service to a publication furnishing racing news for gambling purposes because he had been a member of the Commission when it previously decided in favor of the telephone company in a similar case in which the present complainant's publications had been introduced in evidence, p. 118.

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Commissions, § 51 — Disqualification of Commissioner — Prejudice or bias.

7. That a Commissioner is strenuously opposed to bookmaking operations carried on illegally does not disqualify him from sitting in a case involving a complaint against the discontinuance of telephone service to a publication furnishing racing news for gambling purposes, p. 118.

Commissions, § 51 — Disqualification of Commissioner — Bias.

8. The due process required in Commission proceedings is not synonymous with judicial process, and bias in the form of a firm belief in the objectives of a statute which the Commissioner is given power to enforce rather than in the form of personal hostility is not such bias as disqualifies the Commissioner in the case involved, p. 118.

Appeal and review, § 54 — Grounds for reversal — Disqualification of Commissioner — Immaterial effect.

9. Failure to disqualify a Commissioner on the grounds of prejudice against the complainant would not constitute grounds for upsetting the Commission decision where the disqualification would have resulted in a tie vote and the result would have been the same, since a tie vote in a Commission proceeding is equivalent to a refusal of the action sought, p. 118.

[April 26, 1943. Rehearing denied May 6, 1943.]

A PPEAL from Commission action dismissing complaint against telephone company for denial of service to publisher of racing news for gambling purposes; affirmed. For earlier decision, see (1942) 42 PUR(NS) 170 and (1942) 43 PUR(NS) 26.

APPEARANCES: Arthur W. A. Cowan, of Philadelphia, for appellant; Frederick L. Kiger, Junior Counsel, and Harry M. Showalter, Counsel, both of Harrisburg, and Claude T. Reno, Attorney General, William H. Lamb and E. Everett Mather, Jr., both of Philadelphia, for Bell Telephone Company of Pennsylvania.

Before Keller, P. J., and Cunningham, Baldrige, Stadtfeld, Rhodes, and Hirt, JJ.

KELLER, President Judge: This appeal was argued on November 12, 1942; but supplemental briefs and reply briefs and supplements to supplemental and reply briefs were filed as late as January 15, 1943, which ex-

tended the decision of the appeal and the writing of the opinion.

The appellant is Pennsylvania Publications, Inc., a corporation engaged in the publication of a pamphlet or sheet—eleven inches long by seventeen inches wide, folded vertically down the middle so as to make four pages, each eight and one-half by eleven inches, three columns to a page—called “William Armstrong Jockeys Scratches Daily Sports.” It is commonly known as a “scratch sheet,” and is devoted almost exclusively¹ to furnishing information about horse racing at the various tracks through-

¹ The copy attached to the complaint had no “sport” news except horse racing and only four small news items, totaling two and one-half inches, of one column width, out of one hundred and five such column inches.

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out the country, giving the names of the horses, the respective jockeys, the weights carried, the scratches, the condition of the tracks, the betting odds, the post positions, and the publisher's choice of winners, place etc., as well as other "handicappers' selections," and other matters supposed to be of interest to horse-race fans and bettors. It is a subsidiary of or successor to the William Armstrong Publishing Company, and is affiliated with Armstrong Racing Publications, Inc. (New York), and gives in its "sheet" the "William Armstrong number" immediately preceding the horse's name, indicating the order in which the horses will probably finish in every race run that day. We shall refer to all of them, including appellant, as "Armstrong" or "Armstrong Publications."

Following the action of the Commission on a complaint filed by Abraham Plotnick against the Bell Telephone Company of Pennsylvania,² hereinafter called Bell, the latter notified appellant on June 12, 1940, that as it construed the language of the report and order of the Commission in that case it felt obliged to terminate the telephone and teletypewriter service which it was furnishing appellant, and would, therefore, discontinue the same at noon on July 22, 1940.

On July 23, 1940, appellant filed its complaint with the Commission praying for an order on Bell to continue the telephone and teletypewriter service that it had been accustomed to furnish appellant.

An answer was filed by Bell and hearings were scheduled but were con-

tinued at complainant's request until after the decision of this court was filed in the Plotnick Case on February 28, 1941. The hearings began on July 2, 1941, and over five hundred printed pages of testimony were taken and several hundred additional pages of exhibits were filed.

The Commission on January 12, 1942, 42 PUR(NS) 170, ordered the complaint dismissed, Commissioners Thorne and Morgal dissenting.

Complainant appealed to this court. We refused its application to make the appeal a supersedeas.

The present appeal is so related to the Plotnick Case as to make reference to the facts in that case necessary.

Plotnick had been an employee of Armstrong in Philadelphia from 1924 to July 14, 1940. He had formerly published in Philadelphia a similar sheet, known as "Burns' Track Bulletin," which was consolidated with Armstrong's in 1924, when the latter began its Philadelphia publication. Plotnick wanted to set up again in the same business on his own account, and in order to do so applied to Bell, the respondent and intervening appellee in this case, for like telephone and teletypewriter service as it was furnishing this appellant. Bell refused the application and Plotnick then filed his complaint with the Commission praying for an order on Bell to compel the service. As Plotnick had not yet started his service—and would not do so unless he obtained the desired service from Bell—he used Armstrong's publications as examples of what he proposed to print and publish, and the case was heard and decided on the basis of the Armstrong publications—

² See *Plotnick v. Public Utility Commission* (1941) 143 Pa Super Ct 550, 39 PUR(NS) 423, 18 A(2d) 542.

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including this appellant's—and their general effect as aiding and abetting race-track gambling and bookmakers carrying on that form of gambling.

We realize that this appellant was not a party to that proceeding and is not concluded by it as *res judicata*. But we are not credulous enough to believe that it knew nothing about it. It certainly had full knowledge of it before the appeal in that case was argued in this court—see (1941) 143 Pa Super Ct 550, 39 PUR(NS) 423, 18 A(2d) 542; for it asked and obtained a postponement³ of the hearings in the present case until this court decided the appeal in that case, and it presented to this court on that appeal a brief as *amicus curiae*—see page 552 of the report—in which it argued for a reversal of the Plotnick order.

Therefore, in affirming the order of the Commission in that appeal, which had dismissed Plotnick's complaint, we upheld the Commission in its findings and conclusions that the "scratch sheets," which the complainant Plotnick had presented as the model of his proposed activities, are generally used by bookmakers in connection with the registering and recording of bets on horse races; that bookies—persons who receive bets on horse races from those desiring to bet—conduct a substantial part of their business on the streets of Philadelphia by the use of "scratch sheets" of that type and character; that the telephone facilities of Bell, when furnished to complainant, would aid and abet bookmakers and

gamblers, by providing the means by which they were furnished information *useful* before making bets and *necessary* before paying off winners; that the publication and distribution of "scratch sheets" and the telephone information furnished [free] to buyers of "scratch sheets" by the publishers and distributors is definitely aligned with horse-race gambling in Pennsylvania and so related to it as to make them adjuncts and aids thereto. We approved the following extract from the Commission's report and order: "The respondent company was justified in concluding that from the nature of complainant's business the telephone facilities would be used, or might be used, in the furtherance of horse-race betting which is contrary to law. By reason and by law, respondent company was justified in its refusal to furnish the complainant telephone service in connection with the operation of complainant's business, and the Commission will not direct the respondent company to provide such telephone service." 42 PUR(NS) at p. 177.

The testimony in the present case closed on August 28, 1941. On January 12, 1942, *supra*, the Commission filed its report and order dismissing the complaint. The report contains fourteen printed pages and shows a careful consideration of the evidence. After reciting the introductory statements in this opinion in somewhat greater detail, the report described the telephone and teletypewriter service, which the respondent had notified complainant it proposed to discontinue, as follows: "There are installed on [complainant's] premises

³ Counsel for appellant in asking for a postponement of the hearing until after the decision in the Plotnick appeal wrote the commission, *inter alia*, "The decision in the Plotnick case will be as to many important points *stare decisis* although not *res adjudicata*."

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40 individual telephone trunk lines proceeding from respondent's central exchange, each of which terminates at each of five 'order turrets' mounted on tables. At each 'order turret' seating space is provided for four telephone operators. By means of telephone equipment and switching facilities . . . each operator can plug into any of the 40 lines and answer calls terminating thereon, and it is thereby possible for 20 operators to conduct conversations simultaneously over any 20 of the 40 lines. The telephones have a main directory listing in the name of 'Pennsylvania Publications, Inc'. They carry designations of the Locust Exchange and their numbers are in three groups, namely, Locust 3240 [which is the only number listed] to 3259, inclusive; Locust 3266 to 3271, inclusive; and Locust 3276 to 3289, inclusive. Each of these [three] groups is so arranged that if the first number of any group is called and is busy, trunk hunting equipment in respondent's central office will automatically select an idle trunk line in that particular group for the completion of the call. A call, originating on a line in one group cannot be completed on a line in either of the other two groups. In addition to the 40 lines and five 'order turrets' above described, complainant has an individual message rate business line with a handset which has a main directory listing in the name of 'The William Armstrong Publishing Company, Inc.' and an additional listing under the name of 'Pennsylvania Publications.' This line carries a Rittenhouse [Exchange] designation and its number is 9863. There are also on the premises two teletypewriters which are connected with respondent's

50 PUR(NS)

general teletypewriter exchange service."

The evidence in the record shows that since the discontinuance, in Philadelphia, by the appellant of the publications of National Racing Program and Daily Green Sheet, on February 20, 1940, twenty of these forty trunk lines—that is, all except the first group, Locust 3240 to 3259 inclusive—did not answer calls for racing information, given under appellant's advertised "Free Phone Service," but the lines were not given up or released. The testimony of Captain Ellis, of the vice squad of the Philadelphia Bureau of Police, as to the results obtained when he dialed any telephone number included in groups Locust 3266 to 3271 inclusive or Locust 3276 to 3289 inclusive—see pages 383a-389a and 418a-419a—is interesting to say the least. The reply was always, "You have the wrong number," or "Hello," followed by a cutoff. He evidently did not give the "open sesame" necessary for a conversation. A check made for five months by Mr. Williams, district manager of the respondent in charge of relations between the company and subscribers in the downtown section of Philadelphia, showed that *outgoing* calls by the complainant on Rittenhouse 9863 averaged 126 calls a month; and that *outgoing* calls on Locust 3240-3259 inclusive averaged 1.44 calls per month for each of the 20 lines. For Locust 3266 to 3271, there were 182 *outgoing* calls for six lines in five months or 6.07 calls per line per month; and for Locust 3276-3289, the *outgoing* calls for fourteen lines were 471 or 6.73 calls per line per month. The company had no facilities or equipment to check

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the volume of *incoming* calls; but it could check the volume of "busy's" in a particular group, and it found that from 9 A. M. July 10 to 9 A. M. July 11, there were 1,718 "busy's"—that is, there were 1,718 times when an incoming call could not be completed because *every one* of the 20 trunk lines were "busy" when the call was made; and a similar test made for the next 24 hours showed 2,095 "busy's"—or 2,095 incoming calls that could not be completed because every one of the 20 trunk lines were busy when the call was made. These were the lines that were devoted to *answering calls requesting information as to results of races*. "In furnishing the results of any race the number listed at the left of the horse's name on complainant's sheet is given but the name of the horse itself is never mentioned. For example, if a person calls desiring information as to the horses which finished first, second and third in the first race at Aqueduct, he might be told by complainant's telephone operator that they were 'one, five and three.' Unless an Armstrong sheet, published that day, is consulted, the information given by complainant's telephone operator would not disclose to the person making the call the names of winning horses." [Report of Commission.] 42 PUR(NS) at p. 173.

The Commission made the following additional findings: "While the exact use made of each Armstrong sheet that is sold cannot be ascertained, the sheet that is employed extensively by horse-race bookmakers, i. e., those who receive bets on horses, in Philadelphia, in the conduct of their businesses. From the uncontradicted testimony of Captain Craig Ellis, head

of the vice squad of the Philadelphia police, it appeared that for the past ten years bookmakers have used Armstrong sheets, and that in the past several years practically every one of the numerous raids conducted by the Philadelphia vice squad on bookmakers and bookmaking establishments has revealed the use of complainant's publication. It is the practice of small bookmakers operating on the street or in cigar stores, taprooms, and newsstands, to mark down their bets on Armstrong sheets and then use the Armstrong numbers appearing to the left of the name of the horse when he phones in those bets to his headquarters. Some 'bookies' are able to obviate the necessity of marking the sheets by memorizing the Armstrong numbers which they subsequently phone in. Large bookmaking establishments quartered in private offices have adopted the system of receiving bets on horses designated in terms of Armstrong numbers and marking them down on Armstrong scratch sheets together with results and prices paid. Payoffs by both large and small bookmakers are habitually made upon the basis of information received over the telephone from complainant's offices. Both marked and unmarked Armstrong sheets have been confiscated on numerous occasions by the Philadelphia vice squad from persons and establishments suspected of bookmaking. The use of Armstrong numbers to record bets renders it more difficult for the police to apprehend bookmakers than if the horse's name is recorded on a betting slip. It appears that the bookmaker's practice of using Armstrong sheets has been developed largely since the use of leased wires for gambling purposes has been pro-

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hibited by state and Federal legislation. When such facilities were available it was customary for the bookmakers to post the information secured thereover and the number of their bets upon large sheets known as 'run-down sheets.' With the disappearance of the leased wires, the use of the 'run-down sheets' has given way to the use of complainant's publication, and the information formerly supplied by the leased wire is now obtained from complainant. If complainant's publication and telephone service were not available it would be necessary for bookmakers to establish new systems of operating their businesses at considerable expense of time and money. Upon the basis of the foregoing facts we find and determine that complainant's publication is adaptable for use, and is intended for use in the illegal business of bookmaking, and that it is in fact employed by bookmakers to aid and assist them in the conduct of their operations. We further find and determine that the telephone and typewriter service which complainant desires here from respondent would be used in the encouragement and furtherance of the bookmaking business, and we consequently conclude that it would be improper for us to compel respondent to render such service." 42 PUR(NS) at p. 174.

The Commission further found: "The instant case is on all fours with *Plotnick v. Public Utility Commission* (1941) 143 Pa Super Ct 550, 39 PUR(NS) 423, 18 A(2d) 542, and the decision in that case controls here." After reciting the facts and findings in the *Plotnick Case*, which were upheld by this court, the Commission continued: "We can perceive no essential difference between the

facts of this case and the facts of the *Plotnick Case*, *supra*. If anything, the instant record must be regarded as containing more complete and definite evidence justifying the telephone company's refusal to serve than did the record in the *Plotnick Case*. Since *Plotnick* was not at the time actually engaged in publishing and distributing a scratch sheet, the use which would conceivably be made of his publication had to be determined by reference to the use made of other similar publications. In the instant case, however, the actual use of complainant's 'scratch sheet' is conclusively established and complainant's business definitely linked with the operations of bookmakers and gamblers. . . . In view of all the foregoing we conclude that respondent was justified in believing that its facilities installed on complainant's premises had been used, and would be used in the future, in the furtherance of the illegal business of bookmaking and gambling and it was, therefore, justified in refusing to continue to serve complainant. The complaint must accordingly be dismissed." 42 PUR(NS) at pp. 177, 178.

The appellant has filed twenty-six assignments of error. Those that are deserving of discussion may be grouped under three general heads: (1) The sufficiency of the testimony to support the order of the Commission. (2) Does the order unreasonably discriminate against appellant? (3) Was Commissioner Beamish disqualified from sitting in the case and taking part in its decision?

[1] The other assignments do not merit extended consideration. The Public Utility Law does not contemplate or provide for a jury trial on

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questions of fact except as to such matters as parties were entitled to a jury trial before the enactment of the Public Service Company Law (Act July 26, 1913, P.L. 1374, as amended by Act July 11, 1917, P.L. 808, and July 17, 1917, P.L. 1025) and the Public Utility Law, 66 P.S. § 1101 et seq. That is what is meant by § 1110. Article I, § 6 of the Constitution which provides, "Trial by jury shall be as heretofore, and the right thereof remain inviolate," was not intended to extend the right of trial by jury, but to preserve it as it existed at the foundation of the state government. *Byers and Davis v. Commonwealth* (1862) 42 Pa 89; *Van Swartow v. Commonwealth* (1854) 24 Pa 131, 133, 134. The legislature may withhold trial by jury from new judicial proceedings created by statute and clothed with no common-law jurisdiction. *Emerick v. Harris* (1808) 1 Bin (Pa) 416, 423; *Rhines v. Clark* (1865) 51 Pa 96. Section 1110 of the Public Utility Law restricts the right to trial by jury in public utility cases to those cases "where such right is secured either by the Constitution of the commonwealth or of the United States." Cf. our State Constitution, Art. XVI, § 8.

[2, 3] The appellant had no right unnecessary and uselessly to swell the record in this case by demanding the issuance of subpoenas duces tecum requiring representatives of twenty-two newspapers, published in ten Pennsylvania cities, which printed racing news, "to produce before the Commission all books, papers and records showing communication service and facilities furnished them by the respondent; and all books, papers, and

records showing the sporting news published by the said newspapers, the manner thereof, and the hours at which the successive editions of the said newspapers are distributed to the newsstands and the public; and all editions of the said newspaper for the three Mondays next preceding the date of the hearing or such portions thereof as comprise the said newspapers' complete racing news service." It was stipulated at the hearing that racing news was printed in the Philadelphia newspapers, samples of them were produced, and testimony was received as to the points of likeness and difference between them and the Armstrong sheets. Nor did the Commission err in refusing to permit the complainant to take the deposition of Frank Ortell (a turf news writer) when he was prevented by business engagements in New York from appearing and testifying in rebuttal on the date fixed for the taking of his evidence. The Commission had been most lenient in continuing the hearings at complainant's request and it was guilty of no abuse of discretion in refusing further continuance. Furthermore a reading of Mr. Ortell's affidavit as to what he proposed to testify by deposition, in rebuttal, shows that much of it was substantially a repetition of what he had testified to at the hearing at which he appeared as a witness for complainant. His explanation of "Totalizators" used at race tracks where betting is permitted under state supervision and is a source of revenue to the state, would have little or no application to the gamblers who surreptitiously conduct their illegal bookmaking operations in Philadelphia, and may

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be termed the "bucket shops" of horse racing.

We shall take up the three groups of assignments in the order above stated.

(1) Sufficiency of the Evidence

[4] In our opinion the testimony in the present case is more definite, convincing, and satisfactory than the testimony in the Plotnick Case, which we held to be sufficient. It is true that the complainant in this case produced much more evidence than Plotnick did, but the Commission is the fact-finding body and there is substantial competent evidence to support its findings. In fact, we, too, would be inclined to give more weight to the testimony of the Philadelphia police officials, who have to deal with the gambling situation existing in that city, than to the testimony of newspaper writers from New York, who are members of the New York Turf Writers' Association, and who cover horse racing in New York, where betting at horse races is legal, one of whom frankly stated that he took "a different version than the law" (p. 160a).⁴

The testimony of Police Captain Ellis and Police Sergeant Ferguson in the present case was more positive, definite, and convincing than the evidence of the police authorities in the

Plotnick Case and warranted the findings of fact of the Commission before mentioned. The opinion in the Plotnick Case, *supra*, 143 Pa Super Ct at pp 553-554, refers at length to the legislation in this state evidencing the settled policy of the commonwealth against gambling and against the furnishing of telephonic and telegraphic facilities in furtherance of gambling and the operation of illegal bookmaking and pool-selling establishments. It need not be repeated here. And we also pointed out in that opinion (143 Pa Super Ct at pp 554, 555), that the duty resting upon a telephone company, as a public utility and a common carrier, to furnish its service and facilities to the public generally and without discrimination is limited to *lawful* service and does not extend to the furnishing of service used or intended to be used in violation of law or to aid in an unlawful undertaking. See, *inter alia*, Hamilton v. Western U. Tele. Co. (1940) 34 F Supp 928, 36 PUR(NS) 38; *Id.* (1941) 118 F(2d) 902; Fogarty v. Southern Bell Teleph. & Teleg. Co. (1940) 34 F Supp 251, 35 PUR(NS) 296; Smith v. Western U. Tele. Co. (1887) 84 Ky 664, 2 SW 483; Western U. Tele. Co. v. State (1905) 165 Ind 492, 76 NE 100, 3 LRA(NS) 153, 6 Ann Cas 880; Godwin v. Carolina Teleph. & Teleg. Co. (1904) 136 NC 258, 48

⁴ It is interesting to note that even in New York state where pari-mutuel betting at horse races is permitted by law, License Commissioner Paul Moss of New York city recently issued an order banning the sale by newsstands of racing sheets and scratch sheets, among them the Armstrong publications, including the sheet in question, "William Armstrong Jockeys, Scratches, Daily Sports" and also the "National Racing Program" and "Daily Green Sheet," which, while discontinued in Philadelphia are still issued in New York. Armstrong brought a suit for a per-

manent injunction to restrain Commissioner Moss from barring the sale of its publications on newsstands, which was heard before Supreme Court Justice Peter Schmuck on January 20, 1943, but has not yet been decided. We mention the fact, not as having any influence on our action, but only to show that even in New York where betting at horse races is legal, the municipal authorities apparently had reason to believe that such publications catered to and aided and abetted bookmaking and pool-room gambling, which are not legal.

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SE 636, 67 LRA 251, 103 Am St Rep 941, 1 Ann Cas 203; People ex rel. Restmeyer v. New York Teleph. Co. (1916) 173 App Div 132, 159 NY Supp 369; People ex rel. Hiegel v. New York Teleph. Co. 119 Misc 61, PUR1923A 463, 195 NY Supp 332; and also Hagerty v. Southern Bell Teleph. & Teleg. Co. (1940) 145 Fla 51, 54, 37 PUR(NS) 29, 199 So 570; Howard Sports Daily v. Weller (1941) 179 Md 355, 38 PUR(NS) 197, 18 A(2d) 210.

Even in some states where betting at horse races is permitted, bookmaking and pool-selling away from the tracks is illegal; betting being allowed where it is merely an adjunct to the thrilling spectacle of the horse race, but prohibited away from the race track where it is nothing but gambling.

(2) *Discrimination*

[5] Complainant contends that the order of the Commission unreasonably discriminates between it and "other" newspapers which print racing news. We pointed out, however, in the Plotnick opinion, *supra*, that these racing sheets—including Armstrong's—are in no proper sense "newspapers." They are confined to giving information as to horse races and to tips or "selections" intended for betting on horses, supplemented by telephone service as to the winners and the payoff.

The newspapers referred to by complainants are bona fide newspapers which carry racing news as a part of their sport news, all of which is insignificant as compared to the general and local news printed.

While the betting public in this state may obtain information helpful to

them from these newspapers, that is not the primary purpose of their publication, and the papers would no doubt exist and carry on if all horse racing were banned and discontinued. To discriminate between such newspapers and complainant's "sheet" in the furnishing of telephone service, is not, in the light of the findings in this case, either unreasonable or unlawful. See Howard Sports Daily v. Weller, *supra*.

While complainant's "sheet" is stated in its publication notice as being entered at the New York post office—not the Philadelphia office, it will be noted—by Armstrong Racing Publications, Inc.,—not Pennsylvania Publications, Inc.—as second-class matter, under the Act of Congress of March 3, 1879,⁵ it was admitted at the hearing that in order to have it entered as second-class matter it had to certify to a *yearly subscription price*—which it fixed at \$74—when, in fact, it had no such subscription price, had no *subscribers* at all, but sold its sheets only to newsstands which paid it eighteen cents per copy, for what they sell to the public at twenty-five cents per copy. The sheet is made up in New York and the front and back pages (pp. 1 and 4) are printed there; the type for the inside pages (pp. 2 and 3) are set in New York, but sent to Philadelphia to be run off on the press there, and the completed sheet is then issued in Philadelphia. Since the re-

⁵ The act of March 3, 1879, Chap. 180, 20 Stat. 359, 39 USCA §§ 224, 225, 226, sets forth the conditions under which second-class mail may be issued. Among them is, "It must be originated and published for the dissemination of information of a public character, or devoted to literature, the sciences, arts, or some special industry, and having a legitimate list of subscribers." § 226(4).

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port and order in the Plotnick Case, *supra*, the Philadelphia "sheet" has omitted the daily code or color word referred to in the Plotnick opinion, 143 Pa Super Ct bottom of p. 555 and top of p. 556, by means of which the purchaser of the sheet could obtain by telephone the results of the races; but it is still retained in the New York edition. That the "sheets" have apparently continued to thrive notwithstanding the discontinuance of the telephone service as to the results of races since February 27, 1942, when we refused the petition for supersedeas, proves nothing more than that the bookmakers have, perhaps, established a new system of operating their business, which the law enforcing authorities have not yet discovered. The *present* argument of complainant that such telephone service is not really *necessary* for the conduct of its business is diametrically opposed to its averments in its bill in equity to enjoin the discontinuance of the telephone service until the completion of the proceedings before the Public Utility Commission, and in the petition to this court for a supersedeas, filed February 13, 1942, wherein it averred, "Unless this Honorable Court grants the within petition for supersedeas your petitioner will be utterly without remedy and its business will be irreparably damaged and destroyed, and any appeal' thereafter will be fruitless and a nullity, availing the petitioner nothing.

(3) *Disqualification of Commissioner*

[6-9] The record, as to this feature of the case, was unnecessarily and unreasonably enlarged by a lot of

irrelevant material introduced by complainant.

At the first hearing, which occurred on July 2, 1941, complainant's counsel objected to the sitting Commissioner, Mr. Beamish, taking part in the proceedings, alleging that he was disqualified by reason of bias and prejudice against complainant. The manner of presenting the objection was not such as probably would have been used in urging a similar objection against a judge, sitting in court. Mr. Beamish denied any such disqualification, but withdrew as the sitting commissioner; however, he took part in the subsequent deliberations on the case by the Commission.

We have gone carefully over the record, in this respect, and do not find in it any such clear and convincing evidence of bias or prejudice against complainant, or prejudgment of the case, as would disqualify Mr. Beamish from taking part in the deliberations and decision of the Commission.

It is not alleged that he was disqualified by reason of personal financial interest. See *Tumey v. Ohio* (1927) 273 US 510, 71 L ed 749, 47 S Ct 437, 50 ALR 1243. So that is out of the case.

Mr. Beamish was not, in our opinion, disqualified from sitting because he was a member of the Commission which decided the Plotnick Case. The fact that Plotnick presented the Armstrong publications as models or examples of the "sheet" he proposed to publish, and that, in consequence, the use of their publications in furtherance of bookmaking activities became involved, did not disqualify the members of the Commission from passing on the present complaint when

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it came before them. *Craven v. United States* (1927) 22 F(2d) 605, 607. Otherwise, the complaint could not be heard at all, for all five members of the Commission who took part in the present case also sat in and decided the Plotnick Case. Complainant undertook to satisfy the Commission that essential differences existed in the present case which had not been brought out in the Plotnick hearing and succeeded in convincing two members of the Commission, but not the necessary majority.

It was shown by one of complainant's own witnesses that Mr. Beamish expressed no personal antagonism or hostility to Armstrong or the Armstrong publications. He was strenuously opposed to bookmaking and pool-selling operations carried on in this state contrary to law; but that does not disqualify him from sitting in a case involving a complaint against the discontinuance of an alleged legal service. The newspaper articles, based on alleged interviews with Mr. Beamish, offered in evidence as the foundation for the charge of bias, prejudice, etc., were instances of his militant opposition to bookmaking and pool-selling gambling, but did not establish bias or prejudice against this complainant, such as to disqualify the Commissioner from sitting in the case. "The words 'bias' and 'prejudice' as used in the law of the subject under consideration, refer to the mental attitude or disposition of the judge towards a party to the litigation, and not to any views that he may entertain regarding the subject matter involved." 15 RCL Judges, § 18, p. 530.

The Commission's order in this case

was filed January 12, 1942, 42 PUR (NS) 170. The newspaper articles, prior to that date, relied upon by complainant as showing Mr. Beamish's bias and prejudice, were published October 18, 1939, and December 16, 1939 (714a), before Plotnick filed his complaint, and October 10 and 11, 1940 (607a-611a), about three months after the order in that case was made. The article of October 18, 1939, is not printed in the record as an exhibit; but the other four exhibits do not mention Armstrong's name. They show Mr. Beamish's militant antagonism to illegal bookmaking and similar forms of gambling.

A member of an administrative body or board, which acts as the agent or representative of the legislature in determining facts, may be required, as a part of his duties, to function in a quasi judicial capacity as well. The due process required in such proceedings, however, is not synonymous with judicial process. *Commonwealth v. Cronin* (1939) 336 Pa 469, 473, 9 A(2d) 408. The parties have a right to a fair hearing before an impartial board or body, and a determination free of bias, hostility, and prejudgment. But bias in the form of a firm belief in the objectives of a statute, which the official is given power to enforce, rather than in the form of personal hostility, is not such bias as disqualifies. And where the legislature has not seen fit to separate the functions of the administrative body, it must be assumed that it did not intend that a reasonable bias in favor of the enforcement of the law should subject the official to disqualification.

The most conspicuous example that

has come to our attention in this re-

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spect is *United States v. Morgan* (1941) 313 US 409, 85 L ed 1429, 40 PUR(NS) 439, 61 S Ct 999, where the Supreme Court of the United States reversed the district court of the United States for the western district of Missouri (1940) 32 F Supp 546, for holding, inter alia, that the Secretary of Agriculture (Henry A. Wallace) was not an impartial trier of the facts, based on a letter written by him to the New York Times following the second decision in the proceeding reported in (1938) 304 US 1, 82 L ed 1129, 23 PUR (NS) 339, 58 S Ct 773, 999. Commenting on this, Mr. Justice Frankfurter, speaking for the court, said (40 PUR(NS) at p. 445): "That he not merely held but expressed strong views on matters believed by him to have been in issue, did not unfit him for exercising his duty in subsequent proceedings ordered by this court. As well might it be argued that the judges below, who had three times heard this case, had disqualifying convictions. In publicly criticizing this court's opinion the Secretary merely indulged in a practice familiar in the long history of Anglo-American litigation, whereby unsuccessful litigants and lawyers give vent to their disappointment in tavern or press. Cabinet officers charged by Congress with adjudicatory functions are not assumed to be flabby creatures any more than judges are. Both may have an underlying philosophy in approaching a specific case. But both are assumed to be men of conscience and intellectual discipline, capable of judging a particular controversy fairly on the basis of its own circumstances.

50 PUR(NS)

Nothing in this record disturbs such an assumption."

See, also, *Craven v. United States* *supra*; *Re Crawford's Estate* (1931) 307 Pa 102, 160 Atl 585; *Re Askounes' Liquor License Case* (1941) 144 Pa Super Ct 293, 19 A(2d) 846; *National Labor Relations Board v. Tex-O-Kan Flour Mills Co.* (1941) 122 F(2d) 433, 437.

Appellant relies very strongly on the case of *Berkshire Employees Assn. v. National Labor Relations Board* (1941) 121 F(2d) 235, but in that case the member of the Board, who was held disqualified from sitting, had written to a customer of the Berkshire Company a letter which was capable of the interpretation that he was actively endeavoring to assist in a boycott on Berkshire's goods, at a time when he was called upon, in his capacity as a board member, to pass upon questions concerning alleged unfair labor practices of Berkshire. As Judge Goodrich said, 121 F(2d) at p. 239: "It goes far beyond a general predilection either for or against labor organizations in general or one organization in particular. It is comparable to the situation of a lawyer who has represented a client in an endeavor to get a settlement of a claim and, before the claim is settled, is appointed to the bench and sits in the very case as judge."

On its facts, that case went far beyond this one

The same court in the case of *National Labor Relations Board v. Baldwin Locomotive Works* (1942) 128 F(2d) 39, in answering the contention that the Board was biased and prejudiced, (based on speeches and

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newspaper releases by individual members), distinguished the Berkshire Case, and speaking through Judge Jones, said: "It is now urged by the respondent that the Board was biased and prejudiced just as the stricken paragraph of the answer had alleged. To support the charge the respondent relies on articles written and speeches made by members of the Labor Board. But nowhere is there an allegation or showing that either the Board or any member thereof ever acted *in respect of the subject matter of the instant complaint* other than officially and directly. The case of Berkshire Employees Asso. v. National Labor Relations Board (1941) 121 F(2d) 235, is therefore not in point; and the current charge of bias and prejudice stands unsustained." 128 F(2d) at p. 46 (italics supplied).

Furthermore, appellant has overlooked one very important point, and that is, that if Commissioner Beamish had taken no part in the decision of the case, and the vote had been two to two, the complaint could not have

been sustained but would have to have been dismissed. To uphold appellant's complaint and secure action requiring Bell to continue the service it had notified appellant it would discontinue, a majority of the Commission had to vote in favor of sustaining the complaint. Where a court or administrative body is asked to take action, a tie vote is equivalent to a refusal of the action. If a new trial is asked for, a tie vote amounts to a refusal of the motion. If an appeal is taken, it amounts to an affirmation of the judgment. Etting v. Bank of United States (1826) 11 Wheat 59, 78, 6 L ed 419; Re Griel's Estate (1895) 171 Pa 412, 416, 33 Atl 375; Clark v. Alcoholic Beverage Commission (1934) 54 RI 126, 170 Atl 79, 81. In the present case a tie vote would have amounted to a dismissal of the complaint.

The order of the Commission is affirmed and the appeal is dismissed at the costs of the appellant.

Kenworthy took no part in the consideration or decision of this case.

MAINE PUBLIC UTILITIES COMMISSION

Re Greyhound Corporation

[M. No. 104.]

Monopoly and competition, § 41 — Inadequacy of existing service — War conditions.

1. Crowding at various hours of the day of trains and busses does not, under war conditions, alone warrant the issuance of a decree for the extension of rights of existing carriers or the granting of a certificate to a new carrier, p. 122.

Monopoly and competition, § 41 — Inadequacy of present service — Interstate carrier — Intrastate authority.

2. An interstate motor carrier should not be authorized to pick up intra-

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state passengers along its route during a war emergency simply to increase the carrier's income during this period, notwithstanding that existing intrastate carriers along the route are having difficulty in meeting the wartime traffic demands, p. 122.

Monopoly and competition, § 2 — Commission policy — Motor carrier competition.

Statement, in dissenting opinion, that the established policy of the Commission is that, other things being equal, preference will be granted to an existing carrier operating by lawful authority and performing adequate, safe, and dependable service, p. 126.

(HILL, Commissioner, dissents.)

[June 30, 1943.]

APPPLICATION by interstate motor carrier for authority to pick up intrastate passengers along its route during the war emergency; authority denied.

APPEARANCES: Barrett Elkins, Boston, Massachusetts, and Leon V. Walker, Portland, for the Greyhound Corporation; E. S. Miller, Portland, for Maine Central Transportation Company; Carl C. Jones, Concord, New Hampshire, for Boston & Maine Transportation Company.

By the COMMISSION: Greyhound is a Delaware corporation operating under authority of the Interstate Commerce Commission as an interstate carrier of passengers between Boston, Massachusetts, through Maine to St. Stephen, New Brunswick, and return. It does not operate intrastate or pick up passengers from point to point within this state. It appears from the record that it has never previously sought intrastate rights.

Quoting from the brief filed by petitioner, it "seeks the right to transport persons intrastate between Portland and Calais in this state only for the period of the national emergency and only on its present schedules between Boston and points on its presently operated routes north of Portland.

Upon the basis of such rights, Greyhound proposes to coördinate with Maine Central their respective intrastate as well as interstate operations.

"Greyhound does not seek permanent rights to operate intrastate in Maine. Greyhound will not add interstate schedules which originate and end entirely within Maine. Greyhound does not seek to compete with Staples Motor Coaches and Border Transportation Company.

"Greyhound wishes only to fill its empty seats on its regular interstate schedules for the war period and no more."

Formerly Greyhound operated in interstate service summer months between Boston and other points in Maine where it considered passenger revenue warranted, but this service was not available during the full winter and spring months.

[1, 2] Apparently, from the record Greyhound, as such, has never sought intrastate rights in Maine. It alleges it does not now seek permanent intrastate privileges in this state, but the war has reduced its passenger load and

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many empty seats obtain on its interstate and international run, and to bridge it over the present crisis it seeks intrastate rights to strengthen its financial returns in this area. Undoubtedly not only is its passenger load affected by the limitations of war travel, but also by the fact that the Boston & Maine Transportation Company and Maine Central Transportation Company and the Boston & Maine Railroad and the Maine Central Railroad Company operate interstate and intrastate service over substantially the same routes by bus and rail respectively.

If the nature of the petition is simply to increase the income factor, and is not based on public service regardless of income, this Commission operating as an administrative body with limited powers delegated to it by the legislature, may well pause before it issues a decree which purports to grant intrastate rights to an interstate carrier only for the period of the war emergency without express powers to that effect from the legislature. If the decree of an emergency nature should in law eventually be declared as not within the administrative power of this Commission, then the past constructive policy of this body to consider both the public welfare and the investment of the public in existing public carriers serving the area affected would be disregarded, and to restore the status quo after the emergency when travel by public conveyances will naturally return to normal might require a show cause order to determine why the operator holding the certificate of public convenience and necessity should not discontinue its service—a procedure very difficult to follow

through against a well-equipped and well-operated company.

At the hearings, one of which was continued to a later date, petitioner offered as its witnesses twelve of its agents and employees. The Maine Central Transportation Company, a respondent, caused to testify eight of its agents and employees. On behalf of the public there actually appeared at the hearing one witness for the petitioner, the principal of Oak Grove Seminary at Vassalboro, and one public witness against the petitioner, the chairman of the Brotherhood of Railway Trainmen, who represented the employees of the Maine Central Transportation Company.

Through petitioner's agents and employees, evidence was introduced that the traveling public came to their offices requesting to travel as intrastate passengers on petitioner's busses.

The respondent companies, especially the Maine Central Transportation Company, have a record of long continued service in Maine, coordinated with the railroads in this state, progressively enlarged and extended as to service and equipment as public needs require, and financed to a great extent by funds of Maine people, banks, and trust officers of estates. Their interstate and intrastate service, with connections, is coextensive with Maine and reaches beyond its territorial area. Operations for years have been based on service to the people of Maine and to outsiders on business bent or seeking pleasure. Feed lines by common knowledge continue their functions with a revenue not warranting the service, but main lines swing the load to an extent that better service and expansion seem increasingly the rule.

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The war has developed abnormalities and inconveniences common to all, whether in living conditions or in methods of transportation.

There was evidence produced by the petitioner tending to show that at certain hours of the day Maine Central busses were crowded on certain runs in and out of Portland, Lewiston, Waterville, and Bangor. The evidence from the same record presented facts establishing that at many hours and on many trips travel was light, with many seats available.

Evidence is in the case that between the dates of the two hearings on this subject matter the Maine Central had been formulating a plan for some time, having in mind ODT requirements, which increased the number of scheduled runs at or near rush hours to accommodate the increased travel to and from Portland, Lewiston, Augusta, and Waterville. On the facts presented it is quite apparent that the additional schedules met the requirements of public need and service.

However, with the various government agencies functioning, which in legal effect override the rules and regulations of this Commission, the ODT recently required all bus transportation agencies, including the petitioner and the respondent, to reduce their mileage 20 per cent, and respondent companies have complied therewith, taking off schedules which will least interfere with public traffic at rush hours. It is understood that petitioner is affected to the extent that it has been limited to one scheduled run a day into Bangor and eastern Maine. This Commission cannot help but take judicial notice in the frequent surveys it has made for several months that while orders re-

duce the number of bus miles per day or week, the number of passengers carried is slightly less. This situation not only applies to the petitioner and respondent companies, but it is common knowledge that all public transportation agencies in Maine not parties to this petition, as well as railroads, are presented, because of the war, with abnormal travel conditions at certain hours.

It is no fault of the respondent companies that there may be overcrowded conditions at certain hours of the day, especially when workers leave their employment, but this travel load could easily be met by respondent companies with existing equipment if the orders and regulations of the Office of Defense Transportation did not prohibit the use of too many extra busses which would bring them over the mileage ceiling. The petitioner company is likewise affected. From all the evidence in the case, the petitioner seeks increased rights only to increase its income, and how it can relieve passenger load of intrastate passengers east of Portland on its presently operated schedule is not clear to this Commission from the facts presented.

Crowding at various hours of the day of trains and busses does not under existing war conditions in Maine alone warrant the issuance of a decree for the extension of rights of existing carriers or the granting of a certificate to new operating agencies.

To alleviate the condition of defense workers this Commission has gone far afield in allowing specially limited certificates to operators carrying only defense workers, and furthermore to co-operate in the share-the-ride problem it has an unwritten rule that persons

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shall not be considered public carriers for hire, and hence common carriers, so long as the number traveling on a bus, truck, or car does not exceed nine, including the driver. How far the law permits such departures to aid in the defense effort this Commission does not determine, but it manifests the will to coöperate in the national emergency.

As to the regular and long-established operations of conveying the public for hire over regular routes between fixed termini, this Commission must take judicial notice that all forms of transportation agencies are somewhat crowded at certain hours and are operating only partially loaded the rest of the time. The abnormalities of war just naturally bring about these necessary inconveniences to everybody that must move from one point to another, either for business or for pleasure. The long-established policy of this Commission, declared under the powers vested therein by the legislature, cannot be lightly brushed aside for temporary purposes and for temporary additional revenue to an agency seeking only a temporary certificate and a temporary increase in revenue.

The record of the past and probabilities of the future in the transportation of passengers by bus and train present no inconceivable events. Private automobiles before the war and the same mechanical contrivance after the war, coupled with the inexpensive jitney plane and the back yard helicopter, will flood the two dozen large and the many other small airfields in Maine, and existing bus transportation as it is known will find again the main lines and side feeders scantily patronized, all presenting to this Commission

a serious phase wherein it must not casually abandon precedents and forget that the investments of Maine people must not be jeopardized by too liberal extensions of additional facilities in the field of utilities when normal conditions offer to existing franchise holders only a fair return on a substantial investment, especially when in normal times the service given is completely adequate.

This decision has referred to the policy of this Commission as expressed from time to time in several adjudicated cases, and no quotation therefrom is necessary.

The Commission concludes from all the evidence presented to it that a certificate should not issue to the petitioner predicated on public convenience and necessity in its narrower sense, or in its broader sense of general welfare of the public—neither proposition has been substantiated by satisfactory proof. *Maine Motor Coaches v. Public Utilities Commission* (1925) 125 Me 63, 130 Atl 866.

HILL, Commissioner, dissenting: I am unable to concur.

The Greyhound Corporation asks for limited authority, during the war emergency, to the extent afforded by the capacity of its current schedules, to transport intrastate passengers between points in the state of Maine located on its route east of Portland. Its route, over which it now carries interstate passengers only, passes through Lewiston, Augusta, Waterville, Bangor, and Calais, and is identical with that of the respondent, Maine Central Transportation Company, which enjoys the privilege of transporting local passengers by virtue

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of a certificate heretofore issued to it by this Commission.

Both of these corporations are of high standing as to financial integrity, and possess the ability, under normal conditions, to render excellent service. The high quality of this service has been well established by each, after years of successful operation within the state.

In passing upon the issue presented by this case certain principles are both fundamental and material.

The petitioner is faced with the burden of proving that public convenience and necessity or the general welfare of the public, require the service which it proposes to render. *Maine Motor Coaches v. Public Utilities Commission*, *supra*.

Both the public need and the rights of the existing carrier, Maine Central Transportation Company, are entitled to full consideration.

The certificate issued to Maine Central Transportation Company conferred upon it no legally exclusive right. It is not property. See *Re Stanley* (1934) 133 Me 91, 95, 5 PUR(NS) 359, 174 Atl 93. It is subject to revocation when in the public interest, Rev. Stats. Chap. 66, § 5; and it is subject to the issuance of like authority to another carrier when the public interest requires. In *re The Samoset Co.* 125 Me 141, PUR1926C 855, 131 Atl 692.

In the final analysis, it is the public interest which is paramount and controlling.

It has long been the established policy of this Commission that, other things being equal, preference in such cases as this will be granted to an existing carrier operating by lawful au-

thority and performing an adequate, safe, and dependable service. *Re Portland Taxicab Co.* PUR1923E 772.

With that policy, subject to its own limitations and applied to normal peace-time conditions, I fully concur.

It is, however, an essential qualification of the policy thus declared, that the carrier be rendering adequate public service. Certainly it cannot be deemed in the public interest (and so far as I am aware this Commission has not heretofore declared), that such protection should be extended to a carrier which, for whatever reason, cannot provide the facilities requisite to reasonably meet the public need.

If the service provided by Maine Central Transportation Company is adequate to fill the needs of the traveling public there is no sound reason for granting this petition. If it is not adequate, and cannot under present wartime restrictions be made adequate by Maine Central, the public is, in my judgment, entitled to the temporary supplemental service offered by the petitioner.

I am not greatly greatly impressed by respondent's argument that the hearing at Augusta was not attended by the general public in large numbers. So far as I am aware, there was no notice to the general public and the presence of individual bus patrons was hardly to be anticipated.

The public need and demand for additional service is, however, capable of proof by other means. Ticket agents, bus drivers, and employees, in the best position to be cognizant of the facts, offered ample evidence of such demand. I do not think their testimony should be lightly brushed aside.

While it would be unprofitable to re-

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hearse in detail the voluminous testimony presented, it may be pointed out that traffic surveys, and exhibits compiled therefrom, established the fact that heavy congestion, with passengers standing crowded in the aisles, has existed for many months, as a usual and regular condition, on many trips of Maine Central between Portland and Bangor, and particularly between Portland and Lewiston. This frequently results in busses being late and off schedule. These conditions are to an appreciable extent substantiated by admissions of respondent's witnesses.

It further appears in evidence that the number of passengers carried over its entire route by Maine Central Transportation Company increased from 1,530,451 in 1941 to 2,792,122 in 1942, a net increase of 1,261,671, or 82 per cent. To meet this prodigious increase the bus capacity was augmented by only about 20 per cent. In the Portland to Lewiston portion of the route the increase in travel was considerably greater than 82 per cent, for it was in that area that the maximum increase occurred. These conditions have continued, and probably progressively, in 1943.

At the hearing on this case it was necessary to take a week's adjournment between the two full days of testimony. When the hearing was resumed, Maine Central witnesses testified that, during the interval, their company had inaugurated four new trips daily between Portland and Lewiston, and had extended two other trips to Waterville and Augusta, in order to "relieve" certain scheduled runs. This was admission by action which speaks louder than words. It is cogent and persuasive evidence that the

congestion represented by the petitioner did in fact exist.

These changes required the use of only one additional bus. According to the testimony, this had long been contemplated but could not have been sooner accomplished for lack of facilities, the necessary bus, apparently the only one available, having been previously required for transportation of selectees for the armed forces of the United States. It thus appears that respondent has little equipment with which to add to its service.

To what extent these additional trips might have relieved the situation is not established by the evidence and has become immaterial in the light of subsequent developments. It is undisputed that, in order to meet the reduction in mileage required by Office of Defense Transportation, Maine Central very shortly thereafter found it necessary to eliminate practically all the new trips and certain others in addition. Thus its present schedule affords no more trips than those operated prior to the hearing.

Under these circumstances, I cannot escape the conclusion that respondent's present service is not adequate to the public need, and that respondent, by reason of wartime regulations is not able to make it so. That this is due to circumstances beyond the control of Maine Central, while conceded, can hardly be material to the issue. In my judgment, public convenience and necessity and the general welfare of the public require the service proposed by petitioner from Portland to Bangor and especially from Portland to Lewiston.

While the Greyhound schedule of three round trips a day between Port-

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land and Lewiston, and two between Portland and Bangor, was temporarily curtailed, the Commission has been informed that the Office of Defense Transportation has officially ordered restoration of its full schedule of trips to become effective on July 7th, within a few days of the decision in this case.

It is evident that while wartime conditions have greatly increased local bus travel, long-distance and interstate use of these facilities has materially declined. Thus, it is apparent from the evidence that an average exceeding 60 per cent of Greyhound seats are empty between Portland and Lewiston and Bangor. These would be available to the public if this petition were granted.

But there is another important aspect to this case to which little reference is made in the decree of the Commission.

The Office of Defense Transportation and other Federal agencies are currently urging and requiring coördination of motor transportation facilities, the elimination of unnecessary mileage and duplication, and the conservation of transportation essentials in every possible way as an imperative war measure. In my opinion, this Commission should afford reasonable coöperation toward that end.

The Office of Defense Transportation, by its Special Order B-13, has required Maine Central and Greyhound to coördinate their services, at least in interstate travel, to the extent of honoring each other's tickets, eliminating duplication, and by joint utilization of depots and ticket agents wherever practicable.

Conservation of gasoline, rubber,

and transportation facilities is vital to the successful prosecution of the war. It is as essential in intrastate travel as it is when the commerce happens to cross state lines.

War has crowded public transportation systems to a degree violating normal standards of safety, comfort, and convenience. Yet intrastate passengers must stand crowded in the aisles of Maine Central busses, while the petitioner's vehicles pass over the same route with empty seats.

Both public requirements of travel, and the conservation of essential facilities, dictate maximum utilization of existing transportation schedules.

Under these circumstances I cannot subscribe to a policy which requires the petitioner to deny the use of its available seats to the public.

To my mind it is no valid argument against the petition that Greyhound revenue will be increased if it is granted. Nor do I think that Maine Central's financial condition would be seriously impaired thereby. Maine Central revenues from bus operation have increased very substantially. The service proposed is purely temporary. It would be restricted to existing Greyhound schedules, and the Commission certainly would not extend it as a permanent proposition in the absence of legitimate public requirement.

The evidence does not establish a need for additional local service between Bangor and Calais and intervening points on this route, nor is there a public demand for an alteration of schedules. So far as that portion of the route is concerned, I concur with the majority in dismissing the petition.

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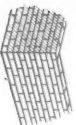


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Equipment Notes

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The Egry Register Company of Dayton, Ohio, through years of experience has perfected a number of business systems which cover the requirements for all handwritten and typewritten records. Egry Register Systems, according to the manufacturer, save time and materials and are adaptable for the activities of all departments of any utility organization.

Included among these systems are: the Tru-Pak Recorder and the Com-Pak Register, both counter type registers, either manually or electrically operated, for handwritten records; the Egry Auditor, an integral unit of Com-Pak or Tru-Pak Register and Cash Drawer, designed to give absolute control over cash transactions; the Handipak, a portable register for handwritten records; the Speed-Feed, a mechanical attachment which makes a practical billing machine out of any typewriter without changing construction or operation and steps up the output of the operator more than 50 per cent; the Com-Pak; Com-Pak Analyzer; and Controller for Addressograph or Elliott Fisher Billing Machine.

All these systems use Egry Continuous forms which are available in either letterpress or offset printing. These forms are furnished with or without one-time interleaved carbons, and in Allset style.

The services of Egry forms engineers, specialists in developing business systems, are available without cost or obligation to those desirous of having their forms redesigned or having new forms suggested for the handling of all handwritten and typewritten records.

Complete information on Egry Business Systems may be obtained by writing the manufacturer, where a free demonstration of Egry systems may be arranged.

Standard Line of Turbine Reduction Units

A line of standardized, completely self-contained, industrial turbine reduction units has been announced by the Cone-Drive Division, Michigan Tool Company, 7171 E. McNichols Road, Detroit 12.

The line has been developed from the naval turbine reduction units produced by the Cone-Drive Division for the U. S. Navy in large numbers in recent years. Built around the use of area-contact, double enveloping Cone-Drive gearing, these units are said to be more compact than would be possible with other forms

of right angle drive gearing of equal load capacity.

50,000-volt Portable Test Set

A newly designed 50,000-volt portable test set for use on single-phase, 115- or 230-volt, 50- or 60-cycle circuits has been announced by the General Electric Company. The set is intended for application in central stations, cable factories, industrial plants, laboratories, and wherever high voltages up to 50,000 volts are required for testing electric apparatus or insulating materials.

This 50,000-volt (5-kva) portable set combines in a compact unit an oil-insulated testing set, a highly accurate indicating voltmeter, a voltmeter selector switch, and complete control equipment, such as air circuit breaker, line switch, foot switch, and induction voltage regulator. The testing transformer is designed with liberal safety factors to withstand the stresses encountered in testing service. A screened safety guard separates the operator and the high-voltage bushing, and a red light warns the operator whenever the set is energized.

The three-wheel truck on which the set is mounted is provided with roller-bearing mounted wheels, and a ball-bearing mounted swivel joint for the front wheel, providing easy portability.

Catalogs and Bulletins

"Safeguarding the Woman Employee"

To assist the industrial executive in formulating a safety program designed to make the woman employee safety-conscious, the Policyholders Service Bureau of the Metropolitan Life Insurance Company recently issued a report entitled, "Safeguarding the Woman Employee." This report offers a review of the steps taken by a number of companies to "sell" the idea of safety to their women employees.

Copies of this study are available to executives who address the bureau on their business

DICKE TOOL COMPANY

DOWNERS GROVE, ILL.

Manufacturers of

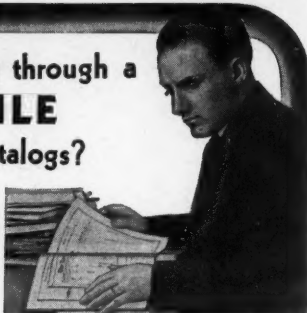
Pole Line Construction Tools

They're Built for Hard Work

Mention the **FORTNIGHTLY**—It identifies your inquiry

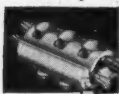
Why dig through a PILE of Catalogs?

Find the
Fitting
you need,
quickly—



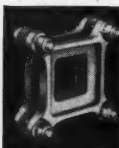
in the **COMPLETE** line

If you have a Penn-Union Catalog, you can instantly find practically every good type of conductor fitting. These few can only suggest the variety:



Universal Clamps to take a large range of conductor sizes; with 1, 2, 3, 4 or more bolts.

L-M Elbows, with compression units giving a dependable grip on both conductors. Also Straight Connectors and Tees with same contact units.



Bus Bar Clamps for installation without drilling bus. Single and multiple. Also bus supports—various types.

Clamp Type Straight Connectors and Reducers, Elbows, Tees, Terminals, Stud Connectors, etc.



Jack-Knife connectors for simple and easy disconnection of motor leads, etc. Spring action—self locking.

Vi-Tite Terminals for quick installation and easy taping. Also sleeve type terminals, screw type, shrink fit, etc. etc.



Splicing Sleeves, Figure 8 and Oval, seamless tubing—also split tinned sleeves. High conductivity copper; close dimensions.

Preferred by the largest utilities and electrical manufacturers—because they have found that "Penn-Union" on a fitting is their best guarantee of Dependability. Write for Catalog.

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Sold by Leading Jobbers

PENN-UNION

CONDUCTOR FITTINGS

Catalogs & Bulletins (Cont'd)

stationery. Address: Policyholders Service Bureau, Metropolitan Life Insurance Company, 1 Madison Avenue, New York 10, N. Y.

Paint Spraying Rules

A wall chart of paint spraying rules showing how to save paint, air, time, power, fuel, and equipment, reduce time lost because of sickness or accident, and improve results, has been published by the Eclipse Air Brush Co., 400 Park Ave., Newark 7, N. J. These rules apply to all types of spray equipment, not necessarily to that made by Eclipse. This chart will be sent free to any one requesting it.

Elliott Tube Cleaners Add FH Coupling

Users of tube cleaners will be interested in Bulletins Y-15 and Y-17, recently issued by Elliott Company, Tube Cleaner Department, Springfield, Ohio, and available upon request.

Bulletin Y-15, a four-page letter-size folder, describes the new Elliott 1300 Series tube cleaner with improved metallurgy, heat-treating and lubrication. The motors have been proportioned so that they can be used to clean both straight and curved tubes, with parts interchangeable with former Lagonda Cleaner motors.

A page of Elliott Tube Cleaner recommendations for straight and curved tubes of various sizes is included in Bulletin Y-15.

Also described is the new FH coupling, an advance over the short section of rubber hose formerly used to minimize wear on the main supply hose.

Additional details on this new coupling are given in a supplementary Bulletin, Y-17.

Manufacturers' Notes

Chevrolet Reports Huge Scrap Collection Total

Final reports for the year ending August 31, 1943, show that scrap collections by Chevrolet dealers all over the country represented a huge and important contribution to the production of war materials. The total amounted to 230,646,574 pounds, or 115,323 tons, according to William E. Holler, general sales manager, Chevrolet Motor Division of General Motors.

Robertshaw Appointment

The appointment of E. J. Horton as assistant to the president, has been announced by John A. Robertshaw, president of the Robertshaw Thermostat Company, Youngwood, Pa.

Prior to his association with Robertshaw, Mr. Horton was chief engineer of the Ruud Manufacturing Company of Pittsburgh, Pa. He is a member of the A.G.A. Sub-Committee on Approval Requirements for Water Heaters of which he was chairman for several years. He has been a member of various other committees of A.G.A. at different times, and is at present a member of the Approval Requirements Committee.

SAVE 50% IN TIME AND MONEY WITH

THE ONE-STEP METHOD



OF BILL ANALYSIS

WHAT effect is the war production program having on your bill distribution? Analysis of customer usage data will provide the answer to this important question. In addition to a knowledge of the existing situation, certain trends may be disclosed, a knowledge of which may be of considerable importance to you under circumstances where the picture is rapidly changing.

The One Step Method of Bill Analysis is ideally suited to meet the needs of this problem. It does away with the necessity for temporarily acquiring, training and supervising a large clerical force. Our experienced staff plus our specially designed Bill Frequency Analyzer machines can turn out the job in a few days and at the cost of only a small fraction of a cent per item.

We will be glad to tell you more in detail about this accurate, rapid and economical method for obtaining a picture of your customer usage situation. Write for a copy of the booklet "*The One Step Method of Bill Analysis*."

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*Manufacturers' Notes (Cont'd)***Robertshaw Starts Program to Aid Food and Fuel Conservation**

John A. Robertshaw, president of Robertshaw Thermostat Company, announced recently that the company has inaugurated a unique educational program having the two-pronged objective of aiding the war effort currently while building future goodwill for Robertshaw and for the range manufacturers it serves.

The Robertshaw Company is addressing homemakers direct through the medium of women's interest programs on leading radio stations in metropolitan markets from coast to coast. Homemakers are being told of the importance, in these wartime days particularly, of using correct oven temperatures to avoid waste of food and fuel. Suggestions as to how a complete meal can be cooked in the oven at the same time and at the same controlled temperature are given. Many other subjects relating to the practical operation of gas and electric range ovens will also be brought to the attention of millions of housewives through this new educational campaign.

It is the belief of the Robertshaw company that their efforts will benefit homemakers everywhere, whether they now have heat controls or not and should cause homemakers to be more aware of the value of oven heat controls and should help keep Robertshaw Oven Heat Controls a first and important accessory

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- Portable Battery Hand Lights.
- Repair Car Roof Searchlights.
- Hospital Emergency Lights.

CARPENTER MFG. CO.

197 Sidney St., Cambridge, Mass.
"MASTER*LIGHT*MAKERS"

that will be looked for by prospective buyers of new gas and electric ranges when they again become available.

Silex Appointment

Frank E. Wolcott, Jr., vice-president in charge of sales of The Silex Company, recently became an officer in the United States Army Transportation Corps.

Sales Promotion Manager J. M. Moore has been promoted to the position of sales manager.

General Electric Wins Second Army-Navy Award

The Honorable Robert P. Patterson, Under Secretary of War, has informed Mr. H. L. Andrews, vice-president of the appliance and merchandise division of the General Electric Bridgeport plant, that for the second time the G-E Bridgeport plant has won the Army-Navy award for meritorious services on the production front.

At your Service!



• Whatever the demands of the gas industry may be, Connelly is equipped to meet them. With our new laboratory for scientific testing of purification materials and greatly increased facilities for the production of Iron Sponge, Governors, Regulators, Back Pressure Valves and other equipment for gas purification and control, Connelly is at your service, ready for any emergency.

Under the able management of Mr. A. L. Smyly, pioneer in gas purification and pressure regulation, this organization has continued its leadership in the field, and the fact that Connelly products are standard in hundreds of the leading gas plants of the country is indicative of the service rendered.

• Mr. A. L. Smyly
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OCT. 28, 1943

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A good share of the trucks which keep America's warpaths alive with essential traffic are Internationals. Performance made them the largest selling heavy-duty trucks on the market. And the same toughness, dependability and economy of operation that put them out in front in days of peace keep them there in days of war.

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No matter what your make or models of trucks, let International Service keep them rolling on the warpath for Victory!

NEW ENGINES

The government has authorized the manufacture of a limited quantity of International KR-11 Heavy-Duty Trucks, for civilian hauling in essential occupations. These big new trucks will have *brand-new 450-cubic-inch engines*, tested and proved in International Half-Track military vehicles!

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INTERNATIONAL TRUCKS

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TAPS FOR THE JAPS!

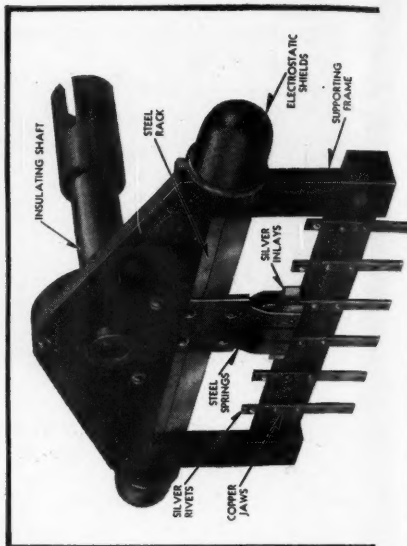
STRAIGHT-LINE TAP CHANGER
WITH SILVER TO SILVER CONTACTS
GIVES PENNSYLVANIA
POWER TRANSFORMERS
UNSURPASSED RELIABILITY

★ NO HOT SPOTS

Silver contacts are capable of carrying heavy overloads and withstanding short circuits without overheating because of low initial contact resistance. No poor contacts can result from oxidation because silver oxide produces a negligible increase in contact resistance.

★ DURABLE

Hardness of silver contacts prevents harmful wear, even under continuous operation such as in a motor operated tap changer. Silver oxides formed on the contact surfaces will not increase the friction. SILVER CONTACTS WILL NEVER FREEZE IN POSITION.



★ EASY TO OPERATE

★ EASY TO OPERATE

The direct connection of the shaft to the gear and use of a minimum number of bearings, plus the application of low friction silver contacts, result in a very low torque and an "easy to operate" tap changer.

★ SELF-ALIGNING

Pennsylvania Tap Changers possess a self-aligning feature which assures a high pressure contact at all times. This is accomplished by the special steel spring construction and straight-line motion of the movable jaw.

★ CORONA ELIMINATED

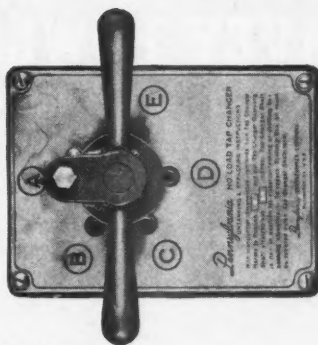
In higher voltage tap changers the elimination of corona is very important. This is accomplished in Pennsylvania Tap Changers by electrostatic shields of spun copper connected to the live parts of the tap-changer. Discharges due to corona are thus prevented.

How it operates

The insulating shaft carries on its end a steel gear, which is hidden from view. This gear engages a cadmium plated steel rack. The rack carries two self-adjusting and self-aligning steel springs. On the end of each spring is mounted a copper jaw with silver inlays. The pressure of the spring is transmitted to the movable jaws which make contact by bearing against silver rivets imbedded in stationary copper jaws. The transformer leads are bolted on to the stationary jaws.

The supporting frame is fabricated of insulating material of great mechanical and electrical strength. Electrostatic Shields are provided on high voltage tap-changers to eliminate corona.

Tap positions plainly marked in large black letters on stainless steel guide plate. Tap Changer can be locked into any tap position.



NAMEPLATE AND OPERATING HANDLE



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TRANSFORMER COMPANY
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SAVE THAT SECOND ENGINE with DAVEY POWER TAKE-OFF



ONE TRUCK

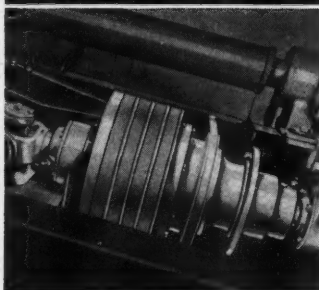


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SPLIT PROPELLER

TWO SEPARATE PIECES OF EQUIPMENT

**POWER TAKE-OFF****HERE'S WHAT IT IS**

The DAVEY Power Take-off is a heavy-duty unit for installation in truck drive shafts to operate truck-mounted equipment normally requiring an accessory engine of 10 to 100 HP. It uses as its basic principle an internal and external gear drive, operating as a strong and durable spline rather than the series of rotating or meshing gears found in the transmission type take-off. Installation is made directly to rear of the truck transmission case.

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It enables you to use truck engine power for operating many types of heavy-duty equipment, among which are:

Air and gas compressors • Generators • Gas well bailers • Concrete mixers
Agricultural machinery • Portable machine shops • Welders • Pumps •
Street sprinklers • Rock crushers.

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1. Saves space for men, tools and materials.
2. Saves weight—doubling truck utility.
3. Reduces original investment.
4. Lowers maintenance cost—no extra engine.
5. Reduces truck license fees.
6. Efficient equipment combinations can be mounted on ONE truck.
7. Saves manpower — equipment controlled from driver's seat.
8. No trailer haul, when equipment is truck mounted.
9. Long-life unit—owners report power take-off outlasts truck . . . saves own cost in 4 to 10 months.

Write for details of how DAVEY Power Take-offs can make any truck a "TWO-JOB" Truck

SOME DISTINGUISHED USERS OF DAVEY POWER TAKE-OFF EQUIPMENT

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BACKED BY 10 YEARS' PROVED PERFORMANCE

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Rack Rakes
Trash Racks
Valves—Pipe Line and Penstock

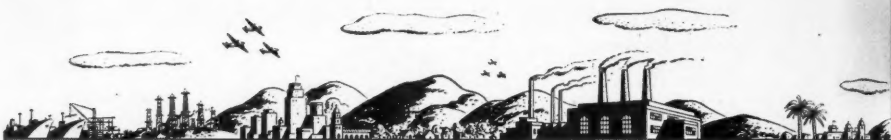
**NEWPORT NEWS SHIPBUILDING
AND DRY DOCK COMPANY**

NEWPORT NEWS, VIRGINIA



A West Coast Operating Engineer agrees:

"If we expect to keep our costs down after the war, we must take full advantage of standardized lines of equipment offered by manufacturers at lower prices."



THIS is one of the many encouraging reactions to General Electric's recent proposal to extend the use of standard designs to the heavy-apparatus field. It helps bear out our belief that the most direct way to lower tomorrow's capital investment will be found in the economies of repetitive manufacture — of power transformers, switchgear, and other heavy apparatus.

As an example, General Electric found it possible to lower prices 35 per cent on factory-assembled switchgear, as it replaced more and more "one-of-a-kind" switchgear units. And in our war production of other heavy apparatus, equally

important cost economies have come out of repetitive manufacture.

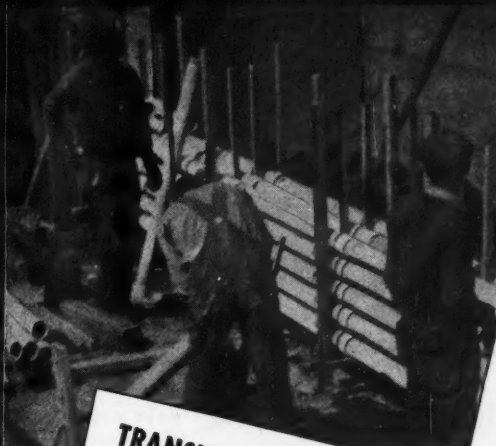
Of course, the possibilities for future savings cannot be realized by the individual effort of any manufacturer — or even by the manufacturing industry as a whole. Rather, builders and users must work together, each accepting minor limitations on individual preference for the sake of major gains over-all.

We believe that both branches of the electrical industry are ready to take this step. If you confirm this opinion, won't you, too, tell us? General Electric Company, Schenectady, N. Y.


GENERAL  ELECTRIC

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Is ideal for locations where ducts must be "concreted in." It is identical with Transite Conduit, except that it is thinner walled and lower priced. It saves at installation because . . .



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is for use underground or on exposed locations without a concrete casing. It can't rust or rot . . . resists weather and corrosion . . . remains unaffected by smoke or ordinary fumes . . .

TRANSITE *CONDUIT*

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- 1. Incombustible . . .** Made of asbestos and cement, Transite Ducts won't contribute to the formation of dangerous smoke, gases or fumes. When burnouts occur, they give maximum protection to adjacent cables and equipment.
- 2. Immune to Electrolysis . . .** Transite Ducts are entirely inorganic, non-metallic, cannot be affected by electrolysis.
- 3. Smooth bore . . .** Cable pulls and replacements are easier . . . damage to sheathings is minimized.
- 4. Easily installed . . .** Their combination of light weight, long lengths and quickly assembled couplings speeds up work.

For details and specifications, write for Data Book DS-410. Address Johns-Manville, 22 East 40th Street, New York.

JM Johns-Manville

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TRANSITE KORDUCT—
for installation in concrete

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for exposed work and installation underground without a concrete encasement

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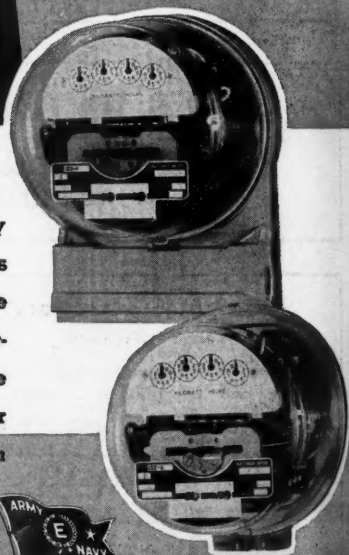
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Building
Wire

Under latest government regulations, no crude rubber is used in the manufacture of these wires, yet through the substitution of plentiful Buna S Synthetic Rubber they retain the inherently superior moisture-resistant, long-life properties of rubber insulation. They carry Underwriters' Laboratory labels, and are approved under the National Electric Code for *all interior wiring systems*, and are the most available wires in wholesalers' hands at present and for the duration.



"CRESFLEX"
Non-metallic
Sheathed
Cable

WAR PRODUCTION 100%

CRESCENT INSULATED WIRE & CABLE CO.

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WIRE and CABLE

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